

(2011) 12 JH CK 0053

In the Jharkhand High Court

Case No : Writ Petition (S) No. 6618 of 2005

Mahadeo Prasad Sahu

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 21-12-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 12 JH CK 0053

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.N. Patel, J.—The present petition has been preferred for getting salary from the year, 1986 till the year, 2000.

2. Learned counsel for the petitioner submitted that the petitioner was appointed as a Casual Worker by respondent no.3 and though he has worked for the aforesaid period, he was not paid salary and, therefore, the instant writ petition has been preferred.

3. Reliance has been place upon Annexure 1 to the memo of petition, which reflects that the appointment of the petitioner was made by respondent no.3 and for approval, it was sent to the higher authority. Learned counsel for the petitioner has also relied upon Annexure 4 to the rejoinder affidavit, filed by the petitioner, and it is stated that looking to these two Annexure, it will appear that the petitioner was working with respondent no.3, but, the salary has not been paid to him.

4. Learned counsel for respondent no.3 has vehemently submitted that a detailed counter affidavit has been filed by respondent no.3 and it has been stated therein that the petitioner was never appointed and has never worked with the respondent and hence, the writ petition deserves to be dismissed.

5. Having heard learned counsel for both the sides and looking to the facts and circumstances of the present case, I see no reason to entertain this writ petition, mainly for the following facts and reasons:

(i) It is alleged by the petitioner that he has been appointed as a daily rated worker by respondent no.3. Paragraph no.11 of the counter affidavit, filed by respondent no.3, reads as under:

11. That from the above facts, it is apparent that the petitioner was not appointed in the corporation, nor he worked in the Corporation and as such he is not entitled for any wages. His claim made in the writ application is false. Therefore, the writ petition filed by him is meritless and the same is liable to be dismissed in limine.

(ii) In view of the aforesaid disputed facts that the petitioner was never appointed with the Bihar State Food Corporation nor he has worked in the Corporation, I am not inclined to grant any relief to the petitioner, as a highly disputed question of fact is involved in this writ petition, which requires cogent and convincing evidences, to be taken.

(iii) Looking to the letter at Annexure 1 to the memo of petition, it cannot be said that the petitioner was appointed by respondent no.3. On the contrary, looking to Annexure 4 to the rejoinder affidavit, it appears that some unauthorized person was working, meaning thereby, there was no authority with the petitioner to work with the Corporation. Thus, looking to Annexure 4 it goes against the petitioner.

5. Be that as it may, looking to paragraph no.11 of the counter affidavit, filed by respondent no.3, and also looking to the fact that there is no letter of appointment with the petitioner, a highly disputed question of fact is involved in this writ petition and hence, this writ petition cannot be entertained by exercising power under Article 226 of the Constitution of India. Accordingly, this writ petition is hereby dismissed.