(2011) 12 JH CK 0082

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1431 of 2009

Mahendra Nath Dwivedi and Krishna Pathak — APPELLANT

Vs

State of Jharkhand and Others — RESPONDENT

Date of Decision : 15-12-2011

Acts Referred:

Citation : (2011) 12 JH CK 0082

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Judgement

R.R. Prasad

1. The petitioners who were under the employment of Jharkhand State Forest Development Corporation got retired on 31.1.2004. When the retiral dues were not paid to them, a writ application bearing W.P. (S) No. 3845 of 2005, was filed before this Court which was disposed of directing the respondents to release the admitted retiral dues together with the interest, legally payable to the petitioners, but that order was complied with only in part. Therefore, a contempt petition was filed before this Court, but that got dismissed. After dismissal of that contempt petition, this writ petition was filed, wherein, the prayer was made to direct the authority to make the payment of the amount payable to the petitioners towards G.P.F., Gratuity, Unutilized leave and Group Insurance. However, during pendency of this writ application, all the amounts payable to the petitioners were paid except a sum of Rs. 61,542.90/- payable to the petitioner No. 1 towards Gratuity. Under the aforesaid situation, no claim was put-forth on behalf of petitioner No. 2 at the time of hearing of this application other than the claim of Rs. 61,542.90/- and also claim towards payment of interest on account of delayed payment of a sum of Rs. 73,416/- towards Unutilized leave.

2. However, the stand which has been taken by the Jharkhand State Forest Development Corporation is that the -petitioner No. 1 has been paid, a sum of Rs. 50.486/- towards Gratuity after deducting a sum of Rs. 61,542.90/- and further a sum of Rs. 73,416/- payable towards Unutilized leave has already been

paid and thus, nothing remains to be paid to the petitioner No. 1. It is also the stand of the respondent that the petitioners were the employees of 8.S.F.D.C., Patna. After creation of the State of Jharkhand, Jharkhand State Forest Development Corporation came into being with effect from 1.04.2002, and since then the petitioners were working under Jharkhand State Forest Development Corporation until 31st January, 2004, when the petitioners got retired and as such, the petitioner had worked only for one year and nine months with J.S.F.D.C. for which period the petitioners were paid salaries, but as the services of the petitioners were never got absorbed with J.S.F.D.C, Ranchi, J.S.F.D.C. would not be responsible for making payment of the retiral dues, rather the Bihar State Forest Development Corporation, Patna, would be liable to make payment of the amount towards retiral dues.

3. Having heard learned counsel appearing for the parties, it be stated that when the retiral dues were not paid to the petitioners after the petitioners got retired, a writ application was filed before this Court which was disposed of, directing the Jharkhand State Forest Development Corporation to make payment of all admitted retiral dues together with the interest, legally payable to the petitioners. Thereupon a review application was preferred by the Jharkhand State Forest Development Corporation seeking review of the order on the ground that the Jharkhand State Forest Development Corporation is not liable to make payment of the retiral dues to the petitioners rather the Bihar State Forest Davelopment Corporation, Patna would be liable. That argument was not accepted and hence, review application was dismissed. Thereupon the payments of all the retiral dues were made to the petitioner No. 2, but so far as petitioner No. 1 is concerned, he was also paid all the retiral dues including the amount of the Gratuity but according to the petitioners, a sum of Rs. 1,12,029/- is payable towards Gratuity and Out of that only a sum of Rs. 50,486/- was paid whereas according to the case of respondent, a sum of Rs. 61,542.90/-was deducted, but no reason whatsoever has been assigned by the respondent-J.S.F.D.C. for deducting the said amount from the Gratuity. Thus, the action of the respondent deducting the part of the amount from the Gratuity without there being any reason is quite arbitrary and hence, J.S.F.D.C. is hereby directed to make payment of the amount of a sum of Rs. 61,542.90/- to the petitioner, within a period of two months, from the date of production of a copy of this order.

4. At the same time, the petitioner is also entitled to get interest @ 6% per annum on the amount of Rs. 73,416/- as the authority without there being any reason whatsoever made payment delayedly of the aforesaid amount payable towards Unutilized leave. Therefore, the respondent-J.S.F.D.C. is directed to make payment of the interest over the said amount within a period of two months.

5. Since the petitioners got retired after the formation of J.S.F.D.C. from the territory of the State of Jharkhand and that the petitioners also unsuccessfully challenged the order by which the respondent was directed to make payment of

the retial dues and that most of the payments have already been paid towards retiral dues, the stand taken by the respondent-Jharkhand State Forest Development Corporation that it is not liable to make payment of the retiral dues is without any substance.

6. Thus, this writ application stands disposed of, to the extent indicated above.

