

(2006) 01 PAT CK 0075
In the Patna High Court
Case No : CWJC No. 5254 of 2004

Maheshwar Jha

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 04-01-2006

Acts Referred:

Citation : (2006) 1 PLJR 569

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : Ganesh Pd. Singh and Namrata Mishra, for the Appellant;

Final Decision : Allowed

Judgement

Radha Mohan Prasad, J.—In this writ petition, petitioner is aggrieved by the order of Additional Secretary, Water Resources Department, Government of Bihar, contained in letter No. 99 dated 12.1.2004 directing all Chief Engineers of the Water Resources Department to take action for reverting on the sanctioned and vacant Class IV posts of such employees who have purportedly been wrongly absorbed/regularised on Class III posts from Class IV work charge establishment and also for quashing the order of the Chief Engineer dated 4.2.2004, contained in Annexure-14 directing all the Superintending Engineers and Executive Engineers to take action against such wrong absorption/regularisation in the light of the above mentioned order of the State Government and consequently for quashing of the order of the Executive Engineer (Respondent No. 13), contained in memo No. 452 dated 3.4.2004 (Annexure-5), whereby and whereunder the petitioner has been reverted back from Class III post of Typist to Class IV post of Peon. It seems that against similar orders of reversion pursuant to the above mentioned similar decision to revert all including those who have been working on the promoted post for pretty long time, many came to this Court by filing various writ petitions and except in the case of Md. Nizamuddin & Anr. vs. State of Bihar & Ors. (C.W.J.C. No. 1374 of 1999 disposed of on 31.7.2003), this Court allowed all such writ petitions bearing C.W.J.C. Nos. 3706 of 1997 Ed.--Reported

in Suresh Kumar Rajak Vs. The State of Bihar and Others, . 4246 of 2004, 4301 of 2004, 4303 of 2004, 4960 of 2004 and 8073 of 2005. In C.W.J.C. No. 3706 of 1997 Suresh Kumar Rajak, who was reverted from the post of Clerk to the post of Khalashi in the same Department, this Court vide judgment dated 5th January, 1998 set aside the order of reversion and further directed the Respondents to consider his case for time bound promotion to higher grade of Correspondence Clerk in accordance with law if so permissible. The State filed appeal against the said order bearing L.P.A. No. 330 of 1998 which was also dismissed vide order dated 14.10.1998 and against the same Special Leave preferred by the State bearing Special Leave to Appeal (Civil) No. 00813 of 1999 has also been dismissed by the Apex Court vide order dated 15.2.1999 contained in Annexure-16/2.

2. Admittedly, the petitioner was appointed as against Class III post of Typist vide office order No. 19 dated 28.1.1982, contained in Annexure-5. It is true that the said appointment was made by way of absorption/adjustment but after conducting typing test etc. However, after serving more than 22 years, the authority has ventured to reopen the matter by considering the legality of the appointment itself and has reverted him to the post of Peon by the impugned order.

3. In the case of Suresh Kumar Rajak, where the authority had reopened the matter to consider the legality of his appointment after 16 years, this Court in the writ petition filed by him after considering all the niceties of the case as well as legal aspect ultimately reached to the conclusion that the orders of reopening the appointment after 16 years and reverting him to the post of Khalashi were illegal and consequently all those orders were quashed. In L.P.A. No. 330 of 1998 by order dated 14.10.1998 (Annexure-16/1) after perusing the record and considering the above aspect the Division Bench found that the order passed by the Writ Court did not suffer from any legal infirmity warranting interference and accordingly dismissed the appeal, which stands affirmed by dismissal of Special Leave by the Apex Court.

4. Despite lapse of almost six long years since the dismissal of said Special Leave to Appeal by the Apex Court, the authorities have completely ignored it and are bent upon to proceed to revert such Officers after they have served for quite long period. The petitioner served on the promoted post for 22 years, which is not disputed by the learned counsel for the State. This only shows callousness on the part of the State authorities in dealing with such matters so much so that they have no respect for the order of the Apex Court also and this has unnecessarily burdened this Court by filing of several writ petitions against such arbitrary action of the State authorities including of the same Department.

5. Learned counsel for the State, however, ventured to rely upon the order passed in similar cases declining to interfere with the order of reversion. However, learned counsel for the State has failed to show from the said order that reference of the earlier orders passed in the case of Suresh Kumar Rajak by

writ Court as well as Division Bench against which the State filed aforementioned Special Leave in the Supreme Court, which was also dismissed were ever brought to the notice of the Court while declining to interfere with the order of reversion. In my opinion, it was the duty of the State to bring full facts before the Court dealing with similar matter, but, it seems that the State purposely suppressed the orders passed in similar case, which stood affirmed by dismissal of Special Leave by the Apex Court. This shows that the Respondent-State have no respect for the orders of this Court and the order passed by the Apex Court and for such callous act on the part of the State authorities, this Court finds it to be a fit case for awarding exemplary cost of Rs. 25,000/- (Rupees twenty five thousand), which should be paid by the State and recovered from the concerned authority from his pocket, who failed to bring it to the notice of the State Government and all concerned before issuance of the impugned orders. Writ petition is, accordingly, allowed with exemplary cost of Rs. 25,000/- to be deposited by the State with the Secretary, Patna High Court Legal Aid and Advice within two weeks of the receipt/production of a copy of this order. The amount of cost shall be recovered from the concerned authority as directed above. The impugned order of reversion, contained in Annexure-15 is hereby quashed and Respondents are directed to allow the petitioner to continue on Class III post and give all consequential benefits as directed in the case of Suresh Kumar Rajak (supra) including financial benefit.