
(2003) 06 JH CK 0103
In the Jharkhand High Court
Case No : C.W.J.C. No. 829 of 1998 (R)

Manshu Kumbhakar	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 18-06-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 3 JCR 82

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : M.B. Lal, for the Appellant; Rajiv Ranjan Mishra, G.P. II., for the Respondent

Final Decision : Allowed

Judgement

Tapen Sen, J.—Heard Mr. M.B. Lal, learned counsel for the petitioners and Mr. Rajiv Ranjan Mishra, learned G.P. II for the respondents.

2. Reference in this case may be made to the order dated 12.6.2003, wherein the submission of the learned counsel for the petitioner was recorded to the effect that one Sanjay Kumar, whose services had also been terminated on the same ground, was reinstated on the basis of an order passed in M.J.C. No. 147 of 1997 (R). Accordingly, this Court directed that the records of the connected cases be called for. 3. Mr. Rajiv Ranjan Mishra, learned G.P. II submits that he has personally inspected the records of CWJC No. 1384 of 1996 (R) as also the Contempt Application filed therein and he submits that the case of the petitioner is absolutely identical and that the stand of the State in the other case was also similar.

4. In the case of Sanjay Kumar, this Court quashed Annexure 10 (i.e., the order by which his services had been said to be illegal). When the respondents did not reinstate Sanjay Kumar, he filed a Contempt Application which was registered as M.J.C. No. 147 of 1997 (R) and in that case the cause that was filed was taken

note of and it was observed that the order of the Court had been implemented and that the petitioner had already been reinstated in service.

5. The order of the Hon"ble Single Judge passed in the aforementioned Contempt Application is reproduced below :

"Heard learned counsel for both the parties.

This application has been filed for taking action for disobedience of the Court order dated 15-11-96 passed in CWJC No. 1384/96 (R) vide order dated 15.11.96 the petitioner"s writ application was allowed and it was directed that the termination order of the petitioner as contained in Annexure-10, to the writ application be quashed and his case is to be considered on similarly situated other employees. From the show cause filed on behalf of O.P. No. 2 it can be said that the order of the Court had been implemented though with delay and the petitioner has already reinstated in the service in compliance of the order of the Court. So far as giving the same benefit as entitled to other employees it was contended on behalf of O.P. No. 2 that a L.P.A. No. 524/97 (R) had also been filed as against the impugned order and so the petitioner will also get the other benefit in consonance with the order to be passed in L.P.A. No. 524/97 (R). As the order has been substantially complied with, this contempt matter is hereby dropped,"

6. Upon perusal of the aforementioned order, it is apparent that there is a reference of a Letters Patent Appeal also, i.e., L.P.A. No. 524 of 1997 (R). Mr. M.B. Lal, learned counsel for the petitioner submits that the aforementioned Letters Patent Appeal has also been dismissed by an order dated 31st March, 1999 by a Division Bench. Therefore, according to Mr. M.B. Lal, the order dated 15.11.1996 has attained finality and consequently the benefit of reinstatement should also be extended to this petitioner also.

There is no dispute that the order of termination in the instant case contained in Annexure 6 also reflects the name of Sanjay Kumar. There being no distinction at all in the case of Sanjay Kumar and this petitioner, as has been argued by Mr. M.B. Lal and as has been agreed by learned G.P. II in the manner stated above, there is no reason why this petitioner should also not be given similar relief.

8. Mr. Rajiv Ranjan Mishra, learned G.P. II submits that in Sanjay Kumar"s case the petitioner had come up against the order rejecting the representation against the order of termination, but in the instant case, the petitioner has come without waiting for the result of the representation that he had filed, i.e., Annexure 9.

9. Be that, as it may, since the cause of action is same and since the order of termination is also same, being order dated 10.4.1997, by which services of both Sanjay Kumar and the petitioner were terminated and in view of the following observation of the Hon"ble Single Judge made on 15.11.1995 in CWJC No. 1384 of 1996 that :

"In that view of the matter, the part of Annexure-10, by which the petitioner"s

service was said to be illegal is hereby quashed and it hereby ordered that the petitioner should be considered as that of the other similarly situated persons as per Annexure-6 and 6/1 and he should also be paid the same benefit as that of the other." and reading the same with the observations of Hon"ble Single judge in the Contempt Application quoted above, no useful purpose will be served in relegating the petitioner to await the outcome of the representation after so many years. Consequently, the petitioner shall also be reinstated on similar terms as Sanjay Kumar. The impugned orders are therefore quashed.

10. The writ application is allowed. No order as to costs.