
(2016) 07 JH CK 0067

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1745 of 2007

Md. Gyasuddin Khan

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 27-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 JLJR 718

Hon'ble Judges : Mr. Ananda Sen, J.

Bench : Single Bench

Advocate : J.C to Senior S.C. III, for the State; Mr. Rupesh Singh, Advocate, for the Respondent Nos. 2 to 4 and 6; Mr. Bhaiy Viswajeet Kumar and Mr. Sheo Kumar Singh, Advocates, for the Petitioner

Final Decision : Dismissed

Judgement

Mr. Ananda Sen, J. - This writ application has been filed by the petitioner praying to release his salary from September, 2006, as the same, according to him, has been illegally withheld. He further prayed to call for, and quash the letter no.1574 dated 29.09.2004, by which the service of the petitioner has been terminated in light of the order no. 420 dated 22.03.2003. He also prayed to quash the letter No. 420 dated 22.03.2003 issued by the respondent no.5, by which direction was issued to terminate the services of the employees who were appointed only for a period of three months.

2. The petitioner was appointed vide office order No. 35, memo no. 330 dated 24.04.1987, as Forest Produce Overseer. The said appointment was for three months, temporarily up to 15.07.1987. The petitioner continued in service beyond the period of three months. Letter No. 420 dated 22.03.2003, was issued by the Managing Director of Bihar State Forest Development Corporation Limited, by which those persons, whose names figure in the annexure were directed to be removed from the services, on the ground that their appointments were temporary in nature and was for a limited period. Though the name of the

petitioner was not incorporated in the said annexure-1, but later on vide letter No. 49 dated 12.01.2007, the name of the petitioner was deemed to be included as one of those, whose appointment, was also to be terminated, in terms of letter No. 420 dated 22.03.2003. The petitioner was thus terminated from service.

3. Counsel for the petitioner submits that the termination of this petitioner is absolutely bad and he could not have been dismissed, in the manner, by which it has been done. He further submits that till date, in spite of the said order, he is continuing in service for which he is entitled to get his salary. Lastly, it is submitted that the impugned letter No. 420 dated 22.03.2003 was issued by the Managing Director, Bihar State Forest Development Corporation Limited, and not by the Jharkhand State Forest Development Corporation Limited, thus the same is not binding and cannot be applied, so far as this petitioner is concerned.

4. Learned counsel for the Jharkhand State Forest Development Corporation Limited, submits, that on 29.09.2004 vide letter No. 1574 the services of the petitioner was terminated. He further submits that vide memo no. 1699 dated 01.10.2004, issued by Divisional Manager, Minor Forest Produce project Division, Hazaribagh, has passed an order, that the services of the petitioner is terminated with immediate effect. Relying on the documents, learned counsel for the Corporation submits that w.e.f. 01.10.2004 itself, the services of the petitioner stood terminated and the petitioner never worked thereafter. He submits that since the petitioner was terminated on 01.10.2004, the petitioner is not entitled to get any salary thereafter. He lastly relies upon the judgment reported in 2009 (2) JCR 458 (Jhr), in the case of Prabhunath Dubey and Ors v. State of Jharkhand and Ors by which the Hon"ble Division Bench, after taking into consideration the same letter bearing No. 420, dated 22.03.2003 has held that there is no illegality in terminating the services of the employees who were appointed illegally.

5. After going through the records, I find that the petitioner was appointed only for a limited period. His services, as per the appointment letter, came to an end on 15.07.1987. I also find that the letter bearing no. 1574 dated 29.09.2004 was issued by which a direction was given to terminate the services of the persons whose names figures in the said list. The name of the petitioner finds place at serial No. 4. Further vide Memo No. 1699 dated 01.10.2004 the services of the petitioner was terminated with immediate effect. This Hon"ble Court in the case reported in 2009 (2) JCR 458 (Jhr) after taking note of the letter No. 420 dated 22.03.2003, which is also subject matter of this writ application, has held that there is no illegality in terminating the persons whose name appeared in the annexure of the said lists. Though the name of the petitioners did not figure in the annexure but later on, it was deemed to have been added vide letter dated 12.01.2007. It is also clear that the services of the petitioner already stood terminated vide order No. 1699 dated 01.10.2004. The objection taken by the learned counsel for the petitioner that the letter no. 420 dated 22.03.2003 has

been issued by the Managing Director, Bihar State Forest Development Corporation Limited, is not applicable so far as the petitioner is concerned cannot be accepted. The same issue, was urged before the Hon"ble Division Bench in the case of Prabhunath Dubey (supra). After taking into consideration all the letters, the Hon"ble Court had held that the letter is applicable to the Jharkhand Forest Corporation Limited, and the said corporation was well within its jurisdiction to terminate the services of the writ petitioner.

6. The judgment of the Hon"ble Division Bench was tested before the Hon"ble Supreme Court in Special Leave to Appeal Civil No. 15849 of 2009 and the same writ petitioner was dismissed by the Hon"ble Supreme Court on 13.04.2011. I find that the case of the petitioner stands on exact similar footing i.e. L.P.A. No. 429 of 2006, as reported in the case of Prabhunath Dubey and ors v. State of Jharkhand and Ors. Since the temporary appointment of the petitioner was not found to be legal, his services were terminated w.e.f. 01.10.2004. I find no illegality in the termination order..

7. So far as the claim for salary made by the petitioner is concerned, there is nothing on record to show that the petitioner has worked after 01.10.2004. A mere statement that he was "still working", is not sufficient to prove that he is still working. His statement has not been supported by any documentary evidence. Considering the all aspects, I find the petitioner is not entitled to get any relief. Since his service already stood terminated w.e.f. 01.10.2004, it needs no interference. The petitioner is also not entitled to any amount on account of salary as claimed by him.

8. This writ application is thus dismissed.