

(2006) 09 JH CK 0005
In the Jharkhand High Court

Navin Roy, Ashok Kumar and Girjanandan Singh	APPELLANT
Vs	
State of Jharkhand and Others	RESPONDENT

Date of Decision : 14-09-2006

Acts Referred:

Citation : (2007) 3 JCR 120

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Judgement

Permod Kohli, J.—In view of the common question of law and common basis for termination of the services of the petitioners, these writ

petitions are being disposed of by this common order.

2. WP(S) No. 1881 of 2005.—Petitioner in this case was registered with the District Employment Exchange, Sahibganj. His name was

recommended vide letter No. 630 dated 3rd October, 1986 to the Civil Surgeon-cum-Chief Medical Officer, Sahibganj for appointment. An

interview letter No. 595 dated 28th November, 1986 was issued to the petitioner asking him to appear for interview on 8th of December, 1986.

Petitioner appeared before the Selection Committee comprising of the Civil Surgeon-cum-Chief Medical Officer, Sahibganj as Chairman and two

members Lei, the District Welfare Officer and the Additional Chief Medical Officer, Sahibganj. The Committee selected him in the Selection

Committee meeting held on 8.12.1986. On being selected, he was appointed as Statistical Investigator (Snakhyaki Anveshak) vide letter No. 703

dated 22nd December, 1986 issued by the Civil Surgeon-cum-Chief Medical Officer, Sahibganj in the pay-scale of Rs. 785-1210/-. Petitioner

joined his service on 29th of December, 1986 on the said post in the office of the

Additional Chief Medical Officer, Sahibganj. He also passed the Hindi Noting Examination on 20th of December, 1987. Vide Memo No. 1295 dated 13th July, 1988, he was appointed to the post of Clerk in the pay-scale of Rs. 580-860/- in the office of the Additional Chief Medical Officer, Sahibganj against the vacant post of Cashier. Petitioner also passed the Accounts Examination in the year 1990. Vide Memo No. 1521 dated 24th of August, 1996, service of the petitioner was confirmed on the post of Clerk with effect from 13.7.1991. It was in the year 2003, salary of the petitioner was stopped vide Memo No. 1441 dated 8.9.2003.

Aggrieved of the action, petitioner preferred writ application No. WP(S) No. 725 of 2004. This petition was disposed of vide order dated 11.2.2004 directing the respondents to make the payments of the salary, if petitioner has been working. While the petitioner was performing his duties, his service has been terminated vide Memo No. 1135 dated 4th August, 2004 by the respondent No. 2 on the ground that his appointment is illegal and this order has been passed pursuant to the order of the Joint Secretary, Department of Health and Family Welfare, Government of Jharkhand, Ranchi Order No. 6/9 (5) dated 7.7.2004. It is further mentioned that petitioner's appointment has been found forged and illegal as per the list contained in Memo No. 1441 dated 8th of September, 2003. He has assailed the order of termination.

3. WP(S) No. 5569 of 2004.--Petitioner in this case was appointed as Vaccinator vide order dated 11.6.1981 issued under Memo No. 2589 by the Civil Surgeon-cum-Chief Medical Officer, Santhal Pargana, Dumka in the pay-scale of Rs. 375-480/- Vide order issued under Memo No. 224 dated 21st of March, 1984 passed by the Regional Deputy Director, Health Services, Bhagalpur Division, petitioner was absorbed on vacant post of Basic Health Worker with effect from the date of his original appointment. He was later promoted to the post of Non-Medical Assistant vide Memo No. 212 dated 10.1.1986 by the Civil Surgeon-cum-Chief Medical Officer, Dumka in the pay-scale of Rs. 680-960/-. Petitioner also passed Hindi Noting and Drafting examination. Petitioner was deputed for training in the Leprosy Training Centre under the Grade 1 in the year 1986. His name appears at Serial No. 977 in the list of Deputy Director, Health Services (Pra.), Bihar, Patna dated 2nd of December, 1993,

Petitioner also earned First Time Bound Promotion vide Order as contained in Memo No. 35 dated 14th of August, 1996 issued by the Civil

Surgeon-cum-Chief Medical Officer, Sahebganj. Petitioner was confirmed. on the post of Basic Health Worker vide Memo No. 1505 dated 23rd

of August, 1996. Petitioner's time bound promotion also came to be confirmed vide Memo No. 596 dated 25th of July, 1998. Vide letter dated

3rd of September, 1998 petitioner was asked to submit his letter of appointment, letter of transfer and the letter of relieving for verification, so that

the salary be released. It is alleged that he submitted all the documents and the Medical Officer, In-charge, Leprosy, Hiranpur, Pakur issued

Certificate dated 22nd of September, 1998 that petitioner's papers have been examined and found correct. Petitioner was asked to submit show-

cause in relation to the legality of the appointment vide Memo No. 813 dated 18th of July, 2001 by the Civil Surgeon-cum-Chief Medical Officer,

Pakur. Petitioner submitted his reply on 23rd of July, 2001 giving all the details. Petitioner was again asked vide letter dated 13th of August, 2001

to present along with the papers before the Additional Collector, Pakur. Petitioner submitted his reply dated 23rd of August, 2001 submitting all

the documents as claimed.

4. The Additional Collector, Pakur on the basis of some enquiry submitted the report vide his letter dated 16th of August, 2003 in relation to all the

32 employees and petitioner's name figures at paragraph No. 18. He has reported that in-charge Medical Officer was not the appointing authority

when the petitioner was appointed on the post of Vaccinator. He has further stated that in view of the letters of Director, Health Services dated 1st

March, 2001 and 27th of March, 2001, no appointment should have been made. The report, accordingly, states that the petitioner's appointment,

absorption/promotion were illegal. The salary of the petitioner was stopped vide Memo No. 1441 dated 8th of September, 2003 by the Civil

Surgeon-cum-Chief Medical Officer, Pakur under the directions of the Deputy Commissioner, Pakur, issued vide his letter dated 6th of

September, 2003. Petitioner's services have been terminated vide letter No. 78 dated 3rd of August, 2004 issued by the District Leprosy Control

Officer, Pakur, pursuant to the order of the Joint Secretary, Department of Health and Family Welfare, Government of Jharkhand. Ranchi vide

letter dated 7.7.2004.

5. WP(S) No. 6683 of 2005 --Petitioner aggrieved of his termination in this case was appointed on the post of Male Family Planning Worker in

the pay-scale of Rs. 535-690/- by the Director-in-Chief, Health Services, Bihar, Patna issued vide Memo No. 177(25) dated 11th of March,

1988. He was confirmed on the said post with effect from 26th of March, 1991 by the Civil Surgeon-cum-Chief Medical Officer, Sahebganj vide

his Memo No. 50 dated 17th of August, 1996. Petitioner completed his training on the post of Male Family Planning Worker in the year 1995.

Petitioner was issued a show-cause notice vide Memo No. 1994 dated 14th of September, 1999 asking him to furnish information about his

appointment. It is alleged that petitioner submitted all the details. Again vide Memo No. 269 dated 13th of August, 2001 another show-cause

notice was issued asking the petitioner to submit the information. It is stated that he furnished the necessary information. Petitioner's service has

been terminated vide letter No. 168 dated 4th of August, 2004, pursuant to the letter dated 7.7.2004 of the Joint Secretary, Family & Health

Welfare, Jharkhand, Ranchi.

6. In the counter affidavit filed, only stand is taken that all these appointments were fake and illegal.

7. After the order dated 7.7.2004 and consequential orders passed, some employees out of 32 dismissed employees challenged these orders in

batch of petitions being WP(S) Nos. 722 of 2004 and other analogous cases. This Court vide judgment dated 24th of August, 2006 on

consideration of the entire issue passed the following order:

In view of the law laid down in the aforesaid Division Bench judgment and the fact that the order impugned herein, already stand quashed, in

WP(S) No. 5705 of 2003 decided on 25.11.2003 the order dated 8th of September, 2003 is non est in the eyes of law as a consequence the

action of the respondents in terminating the services of the petitioners is also illegal and unwarranted, particularly taking into consideration the fact

that in the interim order of this Court dated 25th of November, 2003 passed in WP(S) No. 5705 of 2003, this Court never passed any order for

termination. As a consequence petitioners in all these cases shall be reinstated forthwith and will be deemed to be in continued services with all

consequential benefits.

8. The case of the petitioners is squarely covered by the aforesaid judgment.

9. In view of the above, the order dated 3rd of August, 2004 impugned in WP(S) No. 1881 of 2005, orders dated 4th of August, 2004 and dated

7.7.2004 impugned in WP(S) No. 5569 of 2005 and the order dated 4.8.2004 impugned in WP(S) No. 6683 of 2005 are hereby quashed and

declared as non est in the eyes of law. As a consequence petitioners in all these cases are directed to be reinstated forthwith and will be deemed to

be in continuous service with all consequential benefits.