
(2011) 01 PAT CK 0162
In the Patna High Court
Case No : C.W.J.C. No. 20313 of 2010

Prayag Dev Srivastava

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 31-01-2011

Acts Referred:

Citation : (2011) 59 BLJR 3409 : (2011) 3 PLJR 32

Hon'ble Judges : J.N. Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

J.N. Singh, J.—No one appears for either of the parties.

2. In this writ application Petitioner has challenged the order contained in memo No. 2009 dated 22.11.2010 (Annexure-8) issued under the signature of Director, Horticulture, Bihar, Patna, whereby, on allocation of cadre to the Jharkhand State, he has been directed to be relieved for his joining in the Jharkhand State.

3. From the pleadings it appears that, after the Bihar Reorganization Act, 2000 came into force, Petitioner exercised his option in the format for allocation of his cadre to Bihar State. His application was forwarded by the competent authority to the Director, Horticulture, Bihar, Patna. However, a list of employees was published in 2003 in which Petitioner was placed at serial No. 13 and he was allotted to Jharkhand State. Hence, Petitioner filed his objection to the Director, Agriculture, Bihar, Patna, vide his letter dated 20.3.2003, which was forwarded by his controlling officer, through his letter No. 178 dated 21.6.2003 (Annexure-3). Petitioner filed another objection which was also forwarded by the District Horticulture Officer through his memo No. 183 dated 6.7.2003. Petitioner, thereafter, filed another objection before the Chairman of the State Advisory Committee, vide his letter No. 198 dated 22.7.2003. After some time a list of employees was published by the Ministry of Personnel, Public Grievance and Pension Cell, Government of India on 5.6.2007, vide Annexure-6, in which, the

name of the Petitioner was not included for his transfer to Jharkhand State. Hence, Petitioner was allowed to continue in the State of Bihar and, by office order dated 22.11.2010, vide Annexure-7, he was granted benefits of ACP also. However, it appears that Ministry of Personnel, Public Grievance and Pension Cell, Government of India issued another letter dated 20.8.2010 under which the cadre of Petitioner was allotted to Jharkhand State. Pursuant to this letter, the Director, Horticulture, State of Bihar issued the impugned communication to the District Horticulture Officer, Muzaffarpur/Darbhanga dated 22.11.2010, vide Annexure-8, directing the District Horticulture Office to relieve the Petitioner for his joining in Jharkhand State. Since the Petitioner was to superannuate on 31.1.2011 i.e. merely two months after this order, he again filed his representation on 30.11.2010, vide Annexure-9, before the Director, Horticulture, Bihar, Patna, for allowing him to continue in the State of Bihar and on his present place of posting as Plant Protection. Parichalak in the office of the District Horticulture Officer, Muzaffarpur, for remaining period of his service. The said representation having not been considered, Petitioner has filed this writ application on 15.12.2010.

4. The grievance of the Petitioner is that since he was going to superannuate on 31.1.2011 i.e. today, No. useful purpose would be served in transferring his cadre to the State of Jharkhand and it will only create complications for him in drawing his post retiral benefits.

5. Due to urgency in the matter and since Petitioner is going to superannuate today, the matter was mentioned and has been listed for being taken up out of turn.

6. Due to call of strike in the Bihar Bar Council the lawyers are abstaining from attending the Court duties. There-fore, this Court has considered the application on its pleadings. This Court finds that since the Petitioner is to superannuate today the order of his transfer of his cadre is redundant.

7. Therefore, the order of the Director, Horticulture, Bihar, Patna, as contained in Annexure-8, directing the District Horticulture Officer, Muzaffarpur to relieve the Petitioner for his joining in Jharkhand State, is quashed. The Respondents are directed to treat the Petitioner as continuing on his post in the office of the District Horticulture Officer, Muzaffarpur and to have superannuated as such and release all his pensionary benefits accordingly in accordance with law as expeditiously as possible.

8. The writ application is allowed with the aforesaid observations and directions.