

(2021) 04 JH CK 0114
In the Jharkhand High Court
Case No : Writ Petition (C) No. 1572 Of 2021

Purna Chandra Kahili

APPELLANT

Vs

Union of India & Others And Ors

RESPONDENT

Date of Decision : 12-04-2021

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2021) 04 JH CK 0114

Hon'ble Judges : Dr. Ravi Ranjan, CJ; Sujit Narayan Prasad, J

Bench : Division Bench

Advocate : Aditya Shankar, Shristi Sinha, Amrit Raj Kisku

Judgement

1. Matter has been heard through video conferencing and there is no complaint whatsoever regarding audio and/or visual quality.
2. This case is listed under the heading for 'Orders (with defect)'. Defects ignored.
3. Heard learned counsel for the parties.
4. In the facts and circumstances of the case, the defects, pointed out by the office, are ignored.
5. With the consent of learned counsel for the parties, the matter is being heard and disposed of at this stage itself.
6. This writ petition, filed under Article 226 of the Constitution of India, is directed against the order dated 25.03.2021 passed in O.A. No. 238 of 2021 by learned Central Administrative Tribunal, Patna (Circuit Bench, Ranchi), whereby and whereunder according to writ petitioner grant of ad interim ex-parte stay, over order dated 01.03.2021 by which the writ petitioner was reverted back to the post of Technical Assistant, has been refused; further for quashing of order dated 01.03.2021 by which the petitioner has been reverted back to the post of Technical Assistant; and for quashing transfer order dated 18.02.2021; as also for direction upon the respondents to restore the petitioner on his earlier post, on

which, the writ petitioner was working.

7. The case of the writ petitioner, as per the pleadings made in the Original Application, as has been appended as Annexure 1 to the writ petition, reads hereunder as:

The writ petitioner has joined the services of the respondents on 25.06.1997 on the post of Technical Assistant and while working as such, he acquired four years Diploma in Civil Engineering in the year 2007.

In November, 2011, the respondents-National Highway Authority of India (in short 'NHAI') published vacancy for appointment of hundred numbers of Manager (Tech) on deputation basis. The writ petitioner applied for the said post but his application was rejected on the sole ground that senior level experience is less than three years.

Being aggrieved thereof, the petitioner approached before the Central Administrative Tribunal, New Delhi by filing O.A. No. 299 of 2012, which was disposed of vide order dated 11.12.2012 directing the respondents to consider the eligibility of the applicant for the post of Manager (Technical) keeping in view his experience.

It is the case of the writ petitioner that even after the aforesaid order, his application was not considered in right prospective and the same was rejected by the respondents- authorities.

Being aggrieved, the writ petitioner again approached before the Central Administrative Tribunal, Principal Bench, New Delhi by filing O.A. No. 1275 of 2014, which was disposed of vide order dated 30.10.2014 directing the respondents to re-consider the case of the applicant for promotion to the post of Manager (Technical) by holding a review Selection Commission.

In compliance thereof, the writ petitioner was promoted to the post of Manager (Tech) w.e.f 18.05.2012. Thereafter, the writ petitioner was promoted to the post of Dy. General Manager (Tech) w.e.f. 18.05.2016 vide order dated 27.10.2017.

The respondents-NHAI, in compliance of judgment passed by Hon'ble Apex Court in the case of Orissa Lift Irrigation Corp. Ltd & Ors Vs. Rabi Shankar Patro & Ors directed the writ petitioner to submit his certificate of degree. Pursuant thereto, the writ petitioner submitted detailed representation on 01.05.2019 mentioning therein to consider his candidature for promotion on the basis of experience, as per Rule laid down in Recruitment Rules, and not on the basis of his B. Tech Degree and further stated therein that the above-referred judgment of Hon'ble Apex Court is not applicable in his case.

The respondents-authority, in the meantime, transferred the writ petitioner from PIU-Hazaribagh to NHAI, HQ vide order dated 18.02.2021 in utter violation of the circular issued by the Project Director.

Thereafter, the writ petitioner, vide order dated 01.03.2021 was reverted to the

post of Technical Assistant (without recovery of any monetary advantage earned till date).

Being aggrieved with the order of transfer and order of reversal to the post of Technical Assistant, the writ petitioner approached the Central Administrative Tribunal, Patna (Circuit Bench Ranchi) by filing O.A. No. 238 of 2021.

8. Before the Tribunal, the case was taken up on 25.03.2021 and notice was issued upon the respondents, which has been waived by Mr. Rabindra Rai, learned counsel appearing for the respondents-NHAI, who was directed to file Written Statement.

On the aforesaid date, prayer for interim relief has also been sought for, as such respondents were directed to ensure filing of written statement before next date of hearing, failing which prayer for interim relief was ordered to be heard on the next date of hearing i.e. on 22.04.2021, in absence of written statement.

The aforesaid order dated 25.03.2021 has been assailed in this writ petition. It appears from the prayer made in the instant writ petition, treating the order dated 25.03.2021 to be rejection of prayer for interim relief made by the writ petitioner, to quash order dated 25.03.2021. However, we find from impugned order dated 25.03.2021 passed in O.A. No. 238 of 2021 that the Central Administrative Tribunal has not refused to grant ad interim stay vide order 25.03.2021 rather the learned counsel for the respondents has been directed to ensure filing of written statement and so far ad interim stay is concerned it is to be considered on the next date of hearing and accordingly, the matter has been posted on 22.04.2021.

9. Accordingly, there is no requirement of our interference for the present.

10. However, the writ petition is disposed of requesting the Tribunal to decide the prayer for ad interim relief preferably on the date fixed, in accordance with law.