
(2016) 08 JH CK 0031
In the Jharkhand High Court
Case No : W.P (S) No. 168 of 2013

Raj Mohan Prasad

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 03-08-2016

Acts Referred:

Bihar Reorganization Act, 2000 — Section 72(2)
Constitution of India, 1950 — Article 16

Citation : (2016) 3 AIRJharR 666 : (2017) 1 JCR 354

Hon'ble Judges : Mr. H.C. Mishra, J.

Bench : Single Bench

Advocate : Mr. Rakesh Kumar, Advocate, for the Petitioners; Mr. Abdul Allam, Senior Advocate and Mr. S.P. Roy, Advocate, for the Respondents

Final Decision : Dismissed

Judgement

Mr. H.C. Mishra, J.— Heard the learned counsel for the petitioners and the learned counsel for the State of Jharkhand, as also learned counsel for the State of Bihar.

2. The petitioners in this application have prayed for a direction upon the respondent authorities to transfer the services of the petitioners on their request to the State of Bihar, pursuant to the decision taken by the State of Bihar and the State of Jharkhand in terms of Section 72 (2) of the Bihar Re-organization Act.

3. The petitioners were appointed on class-IV posts in the state of Bihar and after the creation of the State of Jharkhand, their services were finally allocated to the cadre of the State of Jharkhand by order dated 5.9.2007 and were accordingly, posted on their respective posts. Upon bifurcation of the State of Bihar and the creation of the State of Jharkhand, the employees whose service were finally allocated to either of these States, were given the option to change their State and accordingly, the petitioners also made the applications for being transferred to the cadre of the State of Bihar on their requests. Accordingly, the

recommendations were also made in favour of the petitioners for their transfer to the State of Bihar.

4. It is the grievance of the petitioners that though the other similarly situated persons have been transferred to the State of Bihar, but the services of the petitioners have not yet been accepted by the State of Bihar.

5. A counter affidavit has been filed by the State of Jharkhand, wherein it is stated that the Government of Jharkhand, Department of Agriculture, Sugar Cane Development through its letter No. 3173 dated 30.9.2013 and letter No. 3442 dated 31.10.2013 has forwarded the names of such officers and employees, who had opted to be transferred to the State of Bihar and no further application is pending in the department in this regard.

6. Learned counsel for the petitioners has submitted that in view of the recommendation of the State of Jharkhand, the State of Bihar ought to have issued necessary orders, accepting the services of the petitioners in the State of Bihar, which has not yet been done. Learned counsel accordingly, submitted that it is a fit case, in which, the State of Bihar be directed to accept the services of the petitioners.

7. Learned counsel for the State of Bihar was directed to file counter affidavit in the matter by order dated 26.9.2013, but no counter affidavit has yet been filed by the State of Bihar. However, learned counsel for the State of Bihar has placed reliance upon a letter written by the State of Bihar to the Chief Secretary of the state of Jharkhand, as contained in Memo No. 6764 dated 30th July 2013 wherein it is stated that as per the direction given by the Union of India, the decision was required to be taken about the Inter-State transfer of cadre of the employees in cases, the employees who were allocated a particular State cadre and wanted transfer of their State cadre, by the State of Jharkhand and the State of Bihar jointly, for which, the State of Bihar was appointed as the nodal State. It is further pointed out from the said letter that in consultation and with approval of the State of Jharkhand, necessary circulars were issued giving the guidelines for Inter-State transfer of the employees after the final allocation of their cadre. One circular was issued on 29.6.2010 wherein it was provided to give a finality to the matters of Inter-State transfers and it was resolved that no claim for inter-state transfer shall be entertained after 31.08.2010, and all the requests for transfer received until 31.07.2010 had been complied with on 03.09.2010, either by accepting the recommendation or rejecting the same in appropriate cases. In the said letter, though there is mention about such employees whose State cadre were finalised after 31.07.2010, but that is not applicable to the case of the petitioners, as admittedly, the State cadre of the petitioners was finalised much prior to 31.07.2010.

8. Placing reliance upon that letter, learned counsel for the State of Bihar submitted that since no claim for inter-state transfer is to be entertained after 31.08.2010, and all the requests for transfer received until 31.07.2010 had been

complied with on 03.09.2010, either by accepting the recommendation or rejecting the same in appropriate cases, the chapter of Inter-State transfer of cadre of those employees, whose State cadre were finalised prior to 31.07.2010, have finally been closed and no further claims of Inter-State transfer of such employees can be entertained. Learned counsel for the State of Bihar has pointed out from the counter affidavit filed on behalf of the State of Jharkhand that the matters of these petitioners were recommended to the State of Bihar by the State of Jharkhand on 30.09.2013 and 31.10.2013, i.e., much after 31.08.2010 and accordingly, no case can be made out for their consideration.

9. To this, learned counsel for the petitioners has also pointed out from the writ application that the orders have been issued by the State of Bihar even on 18.03.2011, accepting the transfer of the employees from the State of Jharkhand, as contained in Annexure-5 to the writ application. However, Annexure-4 series, brought on record by the learned counsel for the petitioners, clearly show that in cases of those employees, the recommendations had already been made by the State of Jharkhand on 16.01.2010, i.e., much prior to 31.08.2010 and accordingly, their cases were considered.

10. Having heard the learned counsels for both sides and upon going through the record, I find that the chapter of Inter-State transfer of cadre of those employees, whose State cadre were finalised prior to 31.07.2010, have finally been closed and no further claims of Inter- State transfer of such employees can be entertained after 31.08.2010. In the present case, the recommendations have been made by the State of Jharkhand to the State of Bihar on 30.09.2013 and 31.10.2013, i.e., much after the cutoff date of 31.08.2010. In that view of the matter, no case can be made out for directing the State of Bihar to accept the recommendations of the State of Jharkhand for the Inter- State transfer of the petitioners in the State of Bihar.

11. There is no merit in this application and the same is accordingly, dismissed.