

(2004) 01 JH CK 0029
In the Jharkhand High Court
Case No : Writ Petition (S) No. 355 of 2002

Ram Ballabh Prasad Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-01-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 1 JCR 643

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : V.P. Singh, for the Appellant; Pradeep Modi, G.P.I, for the Respondent

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—The petitioner, a Steno was initially appointed in Bihar State Construction Corporation, his services were placed under the Waterways Department and thereafter by the order of the Chief Engineer, water Resources Department, Ranchi, the services of the petitioner was absorbed against the vacant post of Steno.

2. Subsequently, by an Office Order dated 14.12.1995, issued under the signature of the Executive Engineer, Water Resources Department, the services of the petitioner was returned from Water Resources Department to Bihar State Construction Corporation, Patna.

3. The Petitioner challenged the said order by filing CWJC No. 2054 of 1998 before the Patna High Court, which was allowed vide order dated 30.11.1998 and consequently, the petitioner was directed to continue in the Water Resources Department wherein his service was absorbed. Thereafter, the joining of the petitioner in the Water Resources Department was accepted on 26.02,1999 as it appears from Annexures-3 and then he was posted in the vacant post at Hazaribag vide order dated 14.03.1999 as contained in Annexure-4 to the writ application, issued under the signature of the Chief Engineer, Water Resources

Department, Ranchi. In the said Office Order as contained in Annexure-4, it was specifically mentioned that the joining of the petitioner was accepted on 11.12.1998 and, therefore, he will be entitled to the salary from the said date.

4. The case of the petitioner is that though the Chief Engineer vide his letter dated 04.06.1999, had passed an order for payment of arrears of salary of the petitioner from 15.12.1995 to 10.12.1998 but the same was not paid and hence the petitioner filed a contempt application before the Patna High Court being MJC No. 3442 of 1999 but by order dated 21.09.2001 the High Court held that no case for contempt was made out and, accordingly, the contempt application was dismissed but with an observation that if the petitioner is left with any grievance, it will be open to him to institute a proper action before an appropriate forum.

5. Thereafter, the petitioner filed a representation before the Superintending Engineer, Waterways Circle, Hazaribag for payment of his arrears of salary from 15.12.1995 to 10.12.1998.

6. The Superintending Engineer vide his letter as contained in Memo. No. 1066 of 01.12.2001 addressed to the Chief Engineer Water Resources Department, Ranchi, sought for a clear cut direction/order in connection with payment of the arrears of the salary of the petitioner from 15.12.1995 to 10.12.1998 but according to the petitioner no order has yet been passed for payment of his due arrears of salary.

7. On the other hand, the stand of respondents as would appear from their counter affidavit is that the petitioner is not entitled for arrears of salary for the aforesaid period i.e. 15.12.1995 to 10.12.1998 because during the said period, the petitioner did not work either in the office of Managing Director, Bihar State Construction Corporation where he was directed to join or in the Water Resources Department and, therefore, he is not entitled for the salary for the said period and further that since the High Court in its order dated 30.11.1998 did not give any direction for payment of salary for the period in question i.e. 15.12.1995 to 10.12.1998.

8. Having heard the learned counsel for the parties and after considering their respective stand, I am of the opinion that since the High Court by order dated 30.11.1998 in CWJC No. 3054 of 1996 allowed the writ application filed by the petitioner and gave a specific direction that the petitioner will continue in the Water Resources Department of the Government of Bihar where his service was adjusted on the basis of Memo. No. 50122 dated 15.12.1990 and, therefore, the petitioner would be deemed to be continuing in the Water Resources Department from where he was relieved by the order which was quashed by the High Court and, therefore even though there was no specific direction of the High Court with regard to payment of salary but since writ application was allowed and he was directed to continue in the Department and, therefore, he would be entitled to all the consequential benefits, in other words the petitioner is held to be entitled for the arrears of salary for the aforesaid period i.e. from 15.12.1995 to 10.12.1998.

9. Accordingly, this application is allowed, the Respondents are directed to pass an appropriate order for payment of arrears of salary to the petitioner for the aforesaid period within a period of eight weeks from the date of receipt/production of a copy of this order.

10. With the aforesaid direction this writ application is allowed.