

(2015) 10 JH CK 0110
In the Jharkhand High Court
Case No : WP(S) No. 126 of 2015

Ram Charitra Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-10-2015

Acts Referred:

Citation : (2015) 4 JLJR 425

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Ravi Kumar Singh, for the Appellant; Jyoti Nayan, for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. By virtue of order dated 12.4.2005 (Annexure-6), issued by the Deputy Secretary, Health, Medical Education and Family Welfare Department, Government of Jharkhand, petitioner who had retired already on 31.7.2004 from the post of Clerk in the Leprosy Unit at Chas under Civil Surgeon, Bokaro, got exemption from passing departmental exam. Even then, the respondent Civil Surgeon vide Annexure-7 dated 27.3.2006 bearing memo No. 625 granted the benefits of 1st and 2nd ACP in the desired scale with effect from 31.7.2004.

2. Petitioner approached this Court in WPS No. 3846/2006 seeking retiral benefits. Vide judgment dated 10.8.2006 (Annexure-8), the writ petition was disposed of directing payment of retiral benefits including arrears of pension and ACP to the petitioner. The contempt petition being Cont.(C) Case No. 548/2006 pursued thereafter, also got disposed of by order dated 21.4.2008 (Annexure-9). The Divisional Commissioner, North Chhotanagpur Division, Hazaribagh confirmed the grant of ACP to the petitioner, as communicated through letter No. 1084 dated 12.3.2008 to the District Leprosy Officer, Bokaro. Petitioner thereafter again preferred a writ petition WPC No. 1110/2009 with the grievance that upon grant of two time bound promotions, his pension is not being revised.

That writ petition stood disposed of on 1.5.2009 vide Annexure-11 by the learned Single Judge with a direction upon the concerned respondents to recalculate the pension of the petitioner in accordance with law within a stipulated time. Now he has sought quashing of the order dated 12.4.2005 (Annexure-6) granting exemption from the departmental exam. stating that the exemption ought to have been granted from the date he made his representation on 13.11.1996, relying upon a judgment rendered by the learned Single Judge of this Court in WPS No. 3590/2013 in the case of Dr. Birendra Kumar v. State of Jharkhand & Others reported in [2014(1) JBCJ 208]. He also has sought quashing of order dated 27.3.2006 granting 1st and 2nd ACP with effect from 31.7.2004 i.e. the date of his superannuation as also the order of confirmation granted by the Divisional Commissioner, North Chhotanagpur Division, Hazaribagh communicated through letter dated 12.3.2008. Consequentially, he has sought benefits of 1st and 2nd ACP with effect from 9.8.1999.

3. Respondent-State in their counter affidavit have also given the same chronology of events relating to the grant of exemption on 12.4.2005 and ACP from the date of his retirement.

4. Respondent Accountant General at para-7 of the counter affidavit has stated that pension papers, requisite sanction, service book, etc. for authorizing the claim in favour of the petitioner has not been received in their office.

5. The aforesaid chronology of facts indicates that after ten years of grant of exemption by order impugned dated 12.4.2005, and also grant of 1st and 2nd ACP with effect from 31.7.2004 by order dated 27.3.2006 passed by the Civil Surgeon, Bokaro and confirmed in March 2008 by the Divisional Commissioner, North Chhotanagpur Division, Hazaribagh, petitioner has sought to rake up a cause of action in 2015. In between, the petitioner has pursued two writ petitions also seeking admissible post retiral dues in 2006 as also in 2009, which stood disposed of in terms indicated therein, as referred to hereinabove. At this stage therefore, not only such a plea is hit by constructive res judicata but is also suffering from gross delay and laches. Therefore, reliance of the petitioner on the judgment rendered in the case of Dr. Birendra Kumar (supra) would not be of any benefit to him. In such circumstances, no interference is called for in the matters in exercise of discretionary jurisdiction of this Court in the impugned orders dated 12.4.2005 (Annexure-6), 27.3.2006 (Annexure-7) and 12.3.2008 (Annexure-10) passed by the respective respondent authorities. The writ petition stands dismissed accordingly.