
(2012) 09 JH CK 0118
In the Jharkhand High Court
Case No : Writ Petition (S) No. 757 of 2008

Ram Lakhan Prasad

APPELLANT

Vs

The State of Jharkhand and The Mines Agent, Koderma Mica
Unit, Jharkhand State Mineral Development Corporation Ltd.

RESPONDENT

Date of Decision : 21-09-2012

Acts Referred:

Citation : (2012) 09 JH CK 0118

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Naresh Pd. Singh and Arvind Kr. Singh, for the Appellant; Saurav Arun, for the Respondent

Final Decision : Allowed

Judgement

Alok Singh

1. Undisputedly, petitioner was appointed as Clerk initially in the Mica Mines on 21.12.1973. Mica Mines was thereafter taken over by the State Government and was handed over to Jharkhand State Mineral Development Corporation Ltd. Date of Birth of the petitioner is 11.03.1949. Jharkhand State Mineral Development Corporation Ltd., vide order dated 21.10.2005, Annexure 2 to the writ petition, had decided to enhance the age of superannuation from 58 years to 60 years. Petitioner was made to retire on attaining the age of 58 years w.e.f. 31.03.2007, although, he should have been allowed to work till 31.03.2009. Soon after receiving the notice of retirement, the petitioner moved a representation (Annexure 9), saying he should not be made to retire on attaining the age of 58 years and should be allowed to work till he attains the age of 60 years, as per the Corporation's decision (Annexure 2). However, no action was taken on Annexure 9 and the petitioner was made to retire w.e.f. 31.03.2007. Petitioner was not paid pension and other retiral benefits, therefore, he has filed the present writ petition, with the request to direct the Respondents to pay the pension and other retiral benefits to him and to pay the salary to him for the

period of two years, since he was made to retire illegally on 31.03.2007 instead of 31.03.2009. Mr. Saurav Arun, learned counsel for the Respondents has vehemently argued that since the petitioner has not worked after 31.03.2007 till 31.03.2009, therefore, applying the principle of no work no pay, he is not entitled for the salary for the period, he has not worked. He has further argued that the Corporation has already fixed the pension and has paid all the retiral benefits to the petitioner, including the arrears. Mr. Saurav Arun has further argued that since the petitioner was the employee of the Mica Mines and simply because, the Mica Mines was taken over by the State Government, the petitioner would not become the employee of the Corporation, therefore, retirement of the petitioner on attaining the age of 58 years was correct and the order of the Corporation to enhance the age is not applicable in the case of the employee of the Mica Mines.

2. The argument of Mr. Saurav Arun cannot be accepted for the simple reasons that the Mica Mines was taken over by the State Government and thereafter were given to the Respondent No. 2; the Corporation was taking work from the employees of the Mica Mines; the Corporation was paying salary to the employees of the Mica Mines. Not only this, pensionary benefits are also being paid by the Corporation. For all purposes, employees of Mica Mines would be treated as employees of the Corporation. Therefore, retirement age of such employees also stood enhanced vide order dated 21.10.2005. Corporation cannot create two classes of its employees. Petitioner should have been allowed to work till the age of 60 years. He was wrongly made to retire at the age of 58 years for no fault of him. Therefore, Respondents cannot run away from their liabilities and should pay the salary to the petitioner for the period, he was not allowed to work, for no fault of him. Accordingly, the present writ petition is allowed and the Respondents are directed to make the payment of salary to the petitioner w.e.f. 01.04.2007 to 31.03.2009, within ninety days from today.