
(2005) 10 JH CK 0004
In the Jharkhand High Court
Case No : WP (S) No. 515 of 2003

Ram Nath Lal Das

APPELLANT

Vs

Bihar State Small Industries Corporation Ltd. and Others

RESPONDENT

Date of Decision : 05-10-2005

Acts Referred:

Citation : (2006) 1 JCR 380a

Hon'ble Judges : S.J. Mukhopadhaya, Acting C.J.

Bench : Single Bench

Advocate : K.K. Ojha and Rakesh Kumar, for the Appellant; Aparesh Kumar Singh, for the Respondent

Judgement

S.J. Mukhopadhaya, A.C.J.

1. The petitioner who was in the services of the Bihar State Small Industries Corporation (hereinafter referred to as the Corporation for short) was proceeded departmentally and he was put under suspension with effect from 11th October, 2001 and on the basis of the report of the departmental authority, he was dismissed from service vide order dated 21st December, 2002. The said order of dismissal is under challenge in the present case.

2. The case was taken up on 22nd August, 2005, when after hearing the parties, the Court passed the following order :

22.8.2005. Heard in Part. From the charge-sheet and records, it appears that the charges are vague. The petitioner has been held "not guilty" of three of the charges. With regard to the 4th charge, there appears to be no specific finding of the enquiry officer that the particular charge has been proved against the petitioner. The allegation that the petitioner had not joined some place in spite of specific direction, though made in the charge-sheet, neither reference of any letter or date or a notification of transfer has been cited. There is nothing on the record to suggest that any imputation of charges was framed and communicated to the petitioner nor anything is there on the record to suggest that any list of

witnesses or evidences was cited and communicated. Prima facie it appears that simply after going through one file, the enquiry officer has written his findings. It further appears that the Managing Director of the Bihar State Small Industries Corporation Ltd. without looking into all the aspects simply dismissed the petitioner from service by the impugned order dated 21st December, 2002. The respondents are accordingly, directed to address the Court on the issue aforesaid. Place this case for further hearing on 5th September, 2005 at the top of the list.

3. A supplementary affidavit has been filed on behalf of the Corporation wherein a copy of the order contained in Memo No. 969/05 dated 2nd October, 2005 has been annexed. Counsel for the Corporation submitted that the matter was re-considered by the Board of Directors in its 181st meeting held on 28th September 2005. The Board decided to reinstate the petitioner subject to action, if any, to be taken in accordance with law. In view of the decision of the Board of Directors, the Managing Director vide order dated 2nd October, 2005 has reinstated the petitioner in service. Learned counsel for the petitioner while accepts that the order of reinstatement has been issued, submitted that the petitioner was neither paid any subsistence allowance during the period under suspension, nor any order has been passed for payment of salary for the intervening period.

4. Having regard to the fact that the petitioner has been reinstated in service, no finding on merit is required to be passed in respect of the order of dismissal dated 21st December, 2002. However, taking into consideration the fact that the petitioner is out of service since December, 2002 and the respondents of their own have reinstated the petitioner, the petitioner is allowed 1/3rd of salary for the intervening period. So far as the subsistence allowance is concerned, if the petitioner produces any certificate that he was present in the Headquarters and was not in employment anywhere, in any organization/department, the respondents will pay the arrears of subsistence allowance to the petitioner entitled in accordance with law. If the petitioner has not attained the date of superannuation, the respondents will accept his joining immediately and pay the consequential benefits as ordered above, within four months from the date of receipt/ production of a copy of this order.

5. This order will not stand in the way of the respondents to pass any order in accordance with law.

6. The writ petition stands disposed of with the aforesaid observations and directions. There will, however, be no order as to costs.