

(2004) 04 JH CK 0057
In the Jharkhand High Court
Case No : C.W.J.C. No. 3084 of 1998 (R)

Ram Naumi Prasad

APPELLANT

Vs

Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 16-04-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 3 JCR 46

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : A.K. Sahani, for the Appellant; Rajendra Krishna, for the Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—The prayer of the petitioner in this writ application is for direction to the respondents to pay the arrears of salary from 12.8.1985 to 6.12.1992 for the post of Junior Electrical Engineer and the benefits of selection grade and to maintain seniority.

2. The facts as stated by the petitioner are that on 12.8.1985 the petitioner was appointed as Operator and was posted in Patratu Thermal Power Station. It is further stated that in view of the judgment passed in C.W.J.C. 720 of 1986 on 16.12.1991 by the Patna High Court and confirmed by the Supreme Court, by notification dated 28.12.1992, the petitioner was treated to be appointed to the post of Junior Electrical Engineer (GTO) Cadre in the scale of Rs. 1,800-3,500/- w.e.f. 12.8.1985 on notional basis.

3. It is stated that since in the said notification dated 28.12.1992 nothing was mentioned with regard to the benefit of the wages or about the monetary benefit in lieu of difference between scale of operator and that of Junior Electrical Engineer, the petitioner represented before the respondent No. 4 demanding the monetary benefits for the difference of wages between the two posts. The aforesaid representation of the petitioner was disposed of and communicated to

the petitioner by letter dated 26.8.1995 (Annexure 6) informing the petitioner that on consideration of fact it was decided that in between the period of 12.8.1985 to 6.12.1992 no monetary benefit would be given to the petitioner but he would be entitled the benefits of seniority, selection grade, promotion and pension for the said period.

4. Challenging the said order as contained in Annexure 6 it has been submitted by the learned counsel for the petitioner that the petitioner Cannot be penalized the fault and latches on the part of the respondents. The petitioner was appointed to the post of operator in the year 1985, past lower in rank of Junior Electrical Engineer and therefore, respondents were not justified in denying the wage for the period in between 12.8.1985 to 6.12.1992 for the post of Junior Electrical Engineer

5. On the other hand, Mr. Rajendra Krishna learned counsel for the respondents has submitted that no doubt the petitioner was given notional appointment w.e.f. 12.8,1985 on the basis of the judgment of the Patna High Court and Supreme Court but neither the High Court nor the Supreme Court gave any direction/order or held in any manner that the petitioner would be entitled the monetary benefit for the post of Junior Electrical Engineer for the period in between 12.8.1985 to 6.12.1992 and therefore, the decision was rightly taken by the Board that the petitioner would not be entitled to have monetary benefit for the aforesaid period but of course he would be entitled to the benefits of seniority, selection grade promotion and pension for the said period. In support of his submission the learned counsel for the respondents has relied on the decision in the case of Union of India and Ors. vs. Rajinder Singh Rawat, 1999 19 SCC 173 .

6. The direction and order of Patna High Court is relevant to be considered which is quoted here in below :--

"I, accordingly, direct that their cases be considered against the post of Junior Electrical Engineers in reserved categories taking them a belonging to the castes as shown in their respective certificates. However, the Board if it so likes is free to get those caste certificates verified. On the plea of verification, however, the matter cannot postponed indefinitely and the verification if so advised, must be concluded within six weeks from the date of receipt/production of this order. If on verification the two certificates are found to be genuine then the two petitioners must be considered for appointment to the post of Junior Electrical Engineer in the quota of extremely Backward Castes and Schedule Castes respectively is existing on the date of their interview. And if they are otherwise found eligible they must be appointed on that post with effect from the date of their appointment to the lower post of Operator".

7. In the present case also I find that there is no dispute that the petitioner was appointed as Operator on 12.8.1985 and till the period he worked as Operator, he was paid the salary for the said period during which he discharged the duties of the operator. The petitioner assumed the charge of the Junior Electrical

Engineer or was appointed as Junior Electrical Engineer on 6.12.1992 nationally with effect from 12.8.1985 and therefore, in fact he actually started discharging duties of Junior Electrical Engineer after the order dated 6.12.1992 was passed.

8. From a perusal of the decision of the Supreme Court in the case of Union of India and Ors. v. Rajender Singh Rawat (supra), it appears that in the aforesaid decision as cited by the learned counsel for the respondents, the Supreme Court set aside the order passed by the High Court in granting relief for payment of back wages on the ground that he had not actually assumed the charge the period for which he claimed the monetary benefit, therefore, relying on the aforesaid decision of the Supreme Court, I hold that the petitioner is not entitled to difference of salary for the period 12.8.1985 to 6.12.1992. 9. Accordingly, I find no merit in this writ application. It is dismissed.