
(2019) 06 JH CK 0018

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1755 Of 2010

Ram Shankar Sinha

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 17-06-2019

Acts Referred:

Citation : (2019) 06 JH CK 0018

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : R.K. Shahi

Final Decision : Disposed Off

Judgement

1. In spite of repeated call none appears for the petitioner. Mr. R.K. Shahi, A.C to A.A.G II is present on behalf of State.

2. The present writ petition has been filed for quashing office order dated 25.02.2010 by which the respondent no. 4 has cancelled/annulled the

financial benefits of the First Time Bound Promotion from the retrospective date and ordered to recover the financial benefits of First Time Bound

promotion given to the petitioner from his salary from the month of March, 2010.

3. The petitioner was appointed as peon on 16.10.1973 and thereafter, he was appointed on the post of Janjir Vahak on 17.10.1974. By passage of

time, he was promoted to the post of Accounts Clerk on 01.08.1981. The financial benefits of First Time Bound promotion was allowed to the

petitioner w.e.f 1 08.1991 vide order dated 13.09.1995, which was confirmed vide letter dated 21.06.2001 and even service book to that effect was

verified.

4. Petitioner contends that the petitioner has cleared/passed all the three final

papers of Departmental Accounts Examination held on 8th and 9th

November, 1998 but the respondent no. 4 issued a letter to the petitioner for cancellation of financial benefits of First Time Bound promotion on the

ground that the petitioner has not passed the Departmental Account Examination in all the three papers vide letter dated 22.01.2010, which is

impugned in this case and the said cancellation of First Time Bound Promotion was made with retrospective effect. Learned counsel for the petitioner

further submits that order passed by respondent no. 4 is without application of mind, without jurisdiction and without following the principles of natural

justice. It has further been submitted that cancellation of financial benefit of First Time Bound Promotion after more than 19 years is not permissible in

law.

5. Counter affidavit has been filed by respondent no. 4 stating that the petitioner was provisionally granted promotion w.e.f 01.09.1981 in anticipation

to fulfill all the terms and condition required for regular promotion as enumerated in Finance Department letter dated 30.12.1981. But the the petitioner

has not passed the departmental accounts examination before grant of time bound promotion and under time limit. Further, according to Finance

Department letter dated 22.02.2007, government servant who are required to pass accounts examination for promotion will not be given promotion

after 01.09.1983 if they fail to pass the account examination and also in the light of Board of Revenue, Bihar letter dated 01.04.1980 passing of

accounts examination is essential. Even, the petitioner was asked to submit reply to the show cause dated 22.01.2010, which he submitted but the

same was not found commensurate with the relevant rules/circulars/departmental letters. In the light of this fact the impugned order was passed and

order of recovery was passed. It has further been averred that the petitioner is entitled to get time bound promotions after passing of account

examination. It has further been submitted that considering the fact that first time bound promotion was granted to the petitioner with certain

conditions and that he has not fulfilled during the stipulated time that is why the order of recovery has been passed and time bound promotion was

cancelled whereas 1st and 2nd A.C.P benefits has not been cancelled because the petitioner has passed the Account Examination before grant of

A.C.P. In the above facts, there is no illegality in cancelling 1st Time Bound promotion.

6. Be that as it may be, there is no misrepresentation on the part of petitioner in getting the benefits of time bound promotion, hence order of recovery

is bad in law. Hence, impugned order dated 25.02.2010 is quashed to the extent that there shall be no recovery in the light of order dated 25. 02.2010.

However, the other part of the impugned order dated 25.02.2010 shall remain intact.

7. With the above modification in the impugned order, the writ petition stands disposed.