
(2004) 01 PAT CK 0053
In the Patna High Court
Case No : CWJC No. 9965 of 1998

Rama Nand Pandit

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 27-01-2004

Acts Referred:

Citation : (2004) 1 BLJR 384 : (2004) 3 PLJR 181

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : K.N. Choubey, for the Appellant; B.K.M. Tripathy and A.B. Sinha, SC-10, for the Respondent

Judgement

Narayan Roy, J.—Heard counsel for the parties and considered the I.A. applications filed on behalf of the petitioner and also the counter affidavits filed on behalf of the State.

2. This case depicts sorrow state of affairs. The petitioner, who is said to be an Assistant Engineer in the Minor Irrigation Department, is moving here and there without proper posting since 8th July, 1998 and even without payment of salary.

3. The petitioner submitted his charge report before the Executive Engineer, Siwan Division, with effect from 7.7.1998, but the same was not accepted and thereafter this Court vide order dated 30th June, 1999 disposed of the interlocutory application and the Executive Engineer, Minor Irrigation, Siwan Division, was, accordingly, directed to countersign the charge report effective from 7.7.1998 enabling the petitioner to joint new place of posting. It was further directed that after the counter-signature is made, the petitioner shall joint the new place of posting forthwith, but till date the petitioner has not been given new place of posting nor his charge report has been accepted, and, on the contrary, in the communication, as contained in annexure 12 to I.A. No. 6729 of 1999 the authorities erroneously mentioned that the petitioner stood relieved with effect from 8.7.1998 and on that score his salary etc. was not paid. It is

further submitted by learned counsel appearing on behalf of the petitioner that for non-compliance of this Court's direction dated 30th June, 1999, the petitioner had filed a contempt application, which was disposed of giving liberty to the petitioner to raise all these questions in the writ application.

4. Learned counsel for the State, however, is not in a position to dispute all these facts nor he has instruction to say as to whether proper posting has been given to the petitioner and if not then as to whether any proceeding has been drawn against the petitioner and a departmental proceeding is still pending.

5. From the facts, it appears that till date the petitioner has not been given a proper posting nor he has been paid his salary after 8.7.1998 nor at any point of time his charge report has been accepted as earlier directed by this Court.

6. On the contrary, there is nothing on the record to suggest on behalf of the State that the petitioner is facing any departmental inquiry and on that score, proper posting has not been given nor his salary has been paid.

7. In case, there is no departmental proceeding against the petitioner and no proper posting has been given to him, in that case, the petitioner would be entitled to get all benefits treating him on regular service throughout without any break. But in absence of such materials, as referred to above, in my opinion, it would not be proper for this Court to issue any positive direction upon the respondent State. However, in my opinion, the case of the petitioner requires effective consideration by the Secretary of the Department.

8. Under the circumstances, the petitioner is directed to represent his case before respondent No. 2, Secretary, Minor Irrigation Department, Government of Bihar, Patna and in case, it is so done along with a copy of this order, the same would be considered and disposed of by speaking order in accordance with law by respondent No. 2 within a period of six weeks from the date of filing of the representation. In case, respondent No. 2 would be satisfied that the petitioner till date has not been given proper posting nor his salary has been paid till date, and he has continued in service throughout, it will direct for acceptance of the joining of the petitioner at a proper place and shall also direct for payment of full salary right from the date on which he is said to have been relieved, i.e., with effect from 8.7.1998 till date forthwith.

9. With the direction/observation aforesaid, this application is disposed of.