
(2001) 09 JH CK 0080
In the Jharkhand High Court
Case No : CWJC No. 1096 of 2001

Raman Kumar Srivastava

APPELLANT

Vs

Government of Jharkhand and Others

RESPONDENT

Date of Decision : 11-09-2001

Acts Referred:

Citation : (2001) 09 JH CK 0080

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : S.P. Sinha, for the Appellant; Mahesh Kumar Sinha, JC to AAG, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—Heard the parties.

2. In this writ application the petitioner has prayed for quashing the letter No. 475 dated 29.5.2000 issued under the signature of Executive Engineer, Irrigation Division, Barharwa, whereby petitioner was asked to show-cause as to on what basis he was appointed/observed in Class III post from Class IV post.

3. In the year 1973 petitioner was appointed on Class IV post as choukidar. In 1981, the Chief Secretary, Government of Bihar issued a direction to all the Chief Engineers of Irrigation Department to absorb the employees in Class III post according to seniority and qualification, who were appointed prior to 21.8.1975. In compliance of the aforesaid order all the Chief Engineers issued a list of the employees including the petitioner who were found eligible for absorption in Class III post on regular basis. Petitioner was accordingly absorbed in 1981 in Class III post. In the year 1983 a gradation list was issued by the Chief Engineer of those employees who have been made accounts clerk after changing their cadre from correspondence clerk and in the said list the name of the petitioner was included. In the year 1993, the Chief Engineer revised the pay scale of the petitioner on the post of accounts clerk from 19.7.1981. In the same year

petitioner's seniority on the post of accounts clerk was fixed from 21.3.1981. In this way petitioner continuously worked for about 19 years in Class III post and got all the benefit. However, the impugned order was issued in 2000 directing the petitioner to show cause as to how he was absorbed in Class HI post in 1982.

4. A counter-affidavit has been filed in this case, wherein the aforementioned facts have not been disputed by the respondents. However, it is stated that in the year 1999 a general letter was issued by the Water Resources Department, Government of Bihar to all the Chief Engineers directing them to demote all such employees who have been absorbed from Class IV to Class III in the year 1981. In compliance of the aforesaid order the impugned letter was issued by the Executive Engineer asking the petitioner to show-cause as to under what circumstances he was absorbed in Class III post in the year 1981.

5. It is therefore clear that on the basis of general circular issued by the State of Bihar in the year 1981 directing all the Chief Engineers to absorb the services of the Class IV employees who have been worked prior to 1975 and on the basis of government direction a list was prepared by the Chief Engineer and the petitioner was absorbed in Class III post. Petitioner continuously worked in Class III post for about 19 years. It is rather surprising that after 19 years the impugned notice to show-cause was issued by the respondents asking the petitioner to explain as to under what circumstances he was absorbed in Class III post. This Court is of the considered view that such action of the respondents is illegal and wholly without jurisdiction.

6. This writ application is therefore allowed and the impugned order/letter No, 475 dated 29.5.2000 is quashed. Respondents shall pay arrears of salary, if any, to the petitioner, legally payable to him within one month from the date of receipt of copy of this order.

7. Application allowed.