
(2011) 01 JH CK 0065

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1597 of 2010

Ramchandra Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 17-01-2011

Acts Referred:

Citation : (2011) 1 JLJR 516 : (2011) 2 JCR 209

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the Petitioner has prayed for a direction on the Respondents to release his salary, which has been withheld since November, 2008 without assigning any reason.

2. It has been stated that the Petitioner was transferred and posted as Treasury Guard at Giridih against the sanctioned post by order dated 8th July, 2006. Subsequently, an order was issued, transferring the Petitioner to Chas Division. The said order was cancelled by the department by order dated 18th December, 2008. The Petitioner, as such, has been working continuously, but his salary has not been paid since November, 2008. It has been submitted that there was no order of any authority for withholding the salary of the Petitioner. The Petitioner made several requests and filed representation before the Executive Engineer, Drinking Water and Sanitation Department, Division No. 2, Giridih, but till date his arrears of salary has not been paid, even he is not getting his current salary.

3. A counter affidavit has been filed on behalf of the Respondents, stating, inter alia, that the Petitioner has been transferred to Chas Division, but he did not join there. At Giridih, there is only one sanctioned post of Treasury Guard and one Pawan Kumar Maharaj is posted against that post. Since the Petitioner did not join the transferred place, his salary could not be paid in absence of sanctioned post at Giridih.

4. I have heard learned Counsel for the parties. Learned Counsel for the

Petitioner, refuting the stand taken by the Respondents, submitted that though the Petitioner was transferred, his transfer order was cancelled by order dated 21st November 2008 by the higher authority and as such, there was no question of his transfer to the alleged transferred post. It has been further submitted that by Notification No. 2661 dated 8th July, 2006, issued vide Memo No. 2662 dated 8th July, 2006, the Petitioner was transferred and posted at Giridih Division on a sanctioned post and any other person transferred thereafter cannot displace the Petitioner. The Petitioner, as such, has been working on sanctioned post for long along. The ground taken by the Respondents is also absolutely unfounded and in support of the said contention, the Petitioner has brought on record Letter No. 44 dated 18th January, 2009 (Annexure-8) written by the Executive Engineer, Drinking Water and Sanitation Division, Giridih to the Engineer-in-Chief, Drinking Water and Sanitation Department, Jharkhand. In the said letter, it has been clearly mentioned that the Petitioner on his transfer In 2006 had joined on sanctioned post and his subsequent transfer was cancelled by the higher authority and as such, he has been working on the said post continuously and some other person has been brought there, though there was no sanctioned post. By the said letter, he has further sought a direction that since two persons have been posted there, there is difficulty in making payment of their salary and a clear direction is required from the department. The said letter has not been disputed or denied by the Respondents. Though the said letter was written in January, 2009, no direction has been issued by the department regarding withholding the Petitioner's salary.

5. Learned Counsel appearing on behalf of the Respondents could not produce any order of the competent authority for withholding the Petitioner's salary.

6. In view of the above, I find no justification for withholding the Petitioner's salary since November, 2008. The Secretary, Drinking Water and Sanitation Department, Jharkhand is directed to look into the Petitioner's grievance and pass appropriate order in accordance with law within a period of three weeks from the date of receipt/production of a copy of this order. If the Petitioner has worked during the period he has claimed and if there is no order for withholding his salary by any competent authority, the said Respondent shall issue appropriate direction for payment of the Petitioner's arrears of salary as also current salary within a period of two weeks thereafter.

7. With the aforesaid observations and direction, this writ petition is disposed of.