
(2010) 02 JH CK 0048
In the Jharkhand High Court

Santosh Kumar Sinha

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 23-02-2010

Acts Referred:

Citation : (2016) 3 FFLT 267

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Judgement

Amareshwar Sahay, J.—After hearing the learned Counsel for the parties (sic) consent this review application is being disposed of at this (sic).

2. The review petitioner has filed the civil (sic) petition (sic) the judgment/order dated 22.12.2009 passed (sic) Writ petition (sic) W.P.(S) No. 2195 of 2003, stating therein that though in the (sic) petition the prayer (sic) made to direct the respondents to absorb/(sic) the petitioner as per his seniority with continuity to his service against (sic) other posts, equivalent to the posts which he was holding in terms of (sic) Government policy, out during the pendency of the writ petition (sic) interlocutory application being I.A. No. 392 of 2009 was filed, wherein it stated that during the pendency of the writ petition a resolution as contained in memo dated 30.5.2007 was issued by the Secretary, Department of Human Resources Development, Government of Jharkhand, by which it was 756 employees including the petitioner of Non Formal Education Programme, which was closed with effect 15.05.2001, were adjusted against various vacant sanctioned posts in different departments of the Government of Jharkhand. The said resolution was annexed Annexure-15 to the Interlocutory application.

3. The grievance of the review petitioner is that by the said Interlocutory application, the writ petitioner confined his prayer for direction to the respondents to extend him the benefits of seniority on the basis of his prior service as also for the benefits of pay protection. It was further stated in the interlocutory application that the case of the petitioner was covered by the judgment/order dated 28.11.2008 passed in W.P.(S) No. 574 of 2008, since the

case of the petitioner was exactly similarly situated to that of the petitioner of W.P.(S) No. 574 of 2008.

4. After hearing the parties as well as after going through the I.A. No. 392 of 2009, it appears that the submission of the learned Counsel for the petitioner to be (sic).

5. While disposing of the writ petition on 22.12.2009 the interlocutory application could not be taken into consideration inadvertently and, therefore, while (sic) of the writ petition, in paragraphs 9 of the impugned order, it was stated that after issuance of Annexures- 11 and 12 of the supplementary affidavit, the Government of Jharkhand has to take its decision and, accordingly, direction was made to the Government of Jharkhand to take a decision in the matter, if a representation is filed by the petitioner to that effect.

6. After going through the judgment/order dated 28.11.2008 passed in W.P.(S) No. 574 of 2008 as well as the judgment/order dated 12.11.2008 passed in W.P. (S) No. 834 of 2005, which has been annexed with the interlocutory application as well with the review petition, it appears that on similar circumstance direction has been made to the respondents to pay the petitioners to their salary for the period mentioned in the order.

7. In view of the facts and circumstances stated above, the judgment/order dated 22.12.2009 passed in W.P.(S) No. (sic) of 2003 is modified in the following manner:

Paragraphs 9 and 10 of the aforesaid judgment/order are being deleted and in its place, the following new paragraphs as paragraphs 9 and being substituted.

9. During the pendency of the writ petition an interlocutory application being I.A. No. 392 of 2009 was filed by the petitioner, wherein it is stated that the Government of Jharkhand by issue of resolution dated 30.05.2007 has taken a decision to adjust the 756 employees of Non Formal Education Programme, which was closed with effect from 15.05.2001, against various vacant sanctioned posts in different departments of the Government of Jharkhand, but without any benefits of seniority on the basis of their past service and without any pay protection. This Court in exactly similar cases i.e. in W.P.(S) No. 574 of 2008 and W.P.(S) No. 834 of 2005 has directed the respondents to pay to the petitioners their arrears of salary.

In the present case it is stated by the petitioner that he was neither dismissed nor removed from service but was kept as surplus with effect from 16.5.2001 till 20.12.2007 and he was compelled not to work during the said period.

10. In this view of the writ petition is being disposed of by directing the petitioner to file a fresh representation stating details about his claim and grievance along with the copies of the judgment of the aforesaid two writ petitions, namely, W.P.(S) No. 574 of 2008 and W.P.(S) No. 834 of 2005 before the Secretary, Department of Primary, Secondary & Mass Education, Government

of Jharkhand, Ranchi, within a period of four weeks from today and of such a representation is filed by the petitioner within the said period, the concerned respondents shall consider the claim and grievance of the petitioner and disposed of the same by an appropriate order in accordance with law in the (sic) of the aforesaid judgments passed in W.P.(S) No. 574 of 2008 and W.P.(S) No. 834 of 2005 within a period of four weeks from the dated receipt/Production of the representation along with the copies of the judgments/order as indicated above.

8. The Civil review petition, thus, stands disposed of with the above modification in the judgment/order dated 22.12.2009 passed in W.P.(S) No. 2195 of 2003.