
(2020) 09 JH CK 0209

In the Jharkhand High Court

Case No : Writ Petition(S) No. 6703 Of 2012

Shailendra Kumar Singh

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 28-09-2020

Acts Referred:

Citation : (2020) 09 JH CK 0209

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Nagmani Tiwari, S.Garapati, Prashant Kr. Singh

Final Decision : Disposed Of

Judgement

1. Heard through V.C.

2. The instant writ application has been filed by the petitioner for the following reliefs:-

(a) For issuance of an appropriate writ immediately and forthwith implement the decision of the Board of Ranchi Regional Development Authority (RRDA) whereby they have decide to absorb the petitioner permanently and act pursuant to the no objection granted by the Govt. of Jharkhand (Urban Development Department) vide their letter dated 29.08.2007.

(b) Further writ directing the concerned respondent to immediately and forthwith absorb the petitioner permanently in RRDA.

(c) Further issuance of an appropriate writ in the nature of certiorari for quashing the office order issued vide Memo No. 3889 dated 29.10.2011, whereby and whereunder, deputation of the petitioner has been cancelled and his service has been returned back to parent department i.e. Biscoman, Bihar, Patna on the allegation that the petitioner was found indulged himself in illegal work, which is bad in view of the fact that during investigation no case is made out against the petitioner and cognizance has not been taken by the competent court of law for

which is deputation has been cancelled.

(d) Further issuance of an appropriate writ, order or direction on the respondents, particularly Respondent No.2, to decide the representation of the petitioner dated 17.11.2011 as quick as possible and till disposal of the said representation, the petitioner be allowed to function at Ranchi Regional Development Authority, Ranchi.

(e) Further writ directing the respondent till disposal, to maintain status quo in respect of the service of the petitioner in RRDA, or any other appropriate writ(s) be issued, order(s) be passed and direction (s) be made as your lordships may appear fit and proper.

2. The relevant facts of the case as disclosed the instant writ application is that the petitioner has joined BISCAMAN on the post of Assistant Godown Manager and after joining he served the department for several places. However, when the financial condition of BISCAMAN started deteriorating, several employees of BISCAMAN were deputed and posted in several other Govt. Departments. On 6th July, 1999 a direction was issued by the Secretary, Govt. of Bihar, Patna to all the Department Secretaries of the State to absorb the deputed employee of BISCAMAN against vacant post in the relevant departments where they have been deputed. This direction was given on the ground that the financial position of BISCAMAN is very poor. Thereafter, a meeting of BISCAMAN was held headed by the then Minister, wherein it was decided to request all other departments of the Government where employee of BISCAMAN were deputed to absorb them and further to fill the rest vacant post by the employees of BISCAMAN. Pursuant to that on 10.02.2003, the petitioner was deputed in RRDA for the post of Clerk and the petitioner gave his joining and started working in RRDA. Thereafter, a Resolution dated 05.08.2003 of RRDA Board was taken agreeing and accepting to regularize the services of the petitioner in RRDA Permanently. Subsequently, the Urban Development Department, Government of Jharkhand, issued no objection to absorb the services of the petitioner in RRDA. All of a sudden, after a lapse of almost six years on 21.02.2009, the petitioner service was repatriated to BISCAMAN. However, vide letter dated 07.03.2009, the Additional Secretary stayed the order of repatriation dated 21.02.2009 and further directed to take steps to absorb the petitioner pursuant to letter dated 29.07.2007 in RRDA. The petitioner was also given additional charge of planning section vide order no. 84 of 2009 as contained in memo no.683 dated 07.07.2009. Again vide letter dated 31.10.2009, a letter was issued by Additional Secretary to the Government of Jharkhand to RRDA requesting him to inform as to what steps has been taken for absorption of the services of the petitioner. In the meantime on 19.05.2011, a letter of RRDA was issued to Officer in charge of Kotwali Police Station stating therein that some building plans were missing for which action should be taken. The first information report being Kotwali P.S. Case No. 463 of 2011 was instituted on 20.05.2011 and the petitioner was named in the FIR. The charge sheet filed in the said case was only against Umesh Prasad Singh; exonerating

the petitioner from the charge vide order dated 20.09.2011 in Kotwali P.S. Case N. 463 of 2011 (G.R. No. 2506 of 2011). Cognizance was taken only against Umesh Prasad Singh by the learned CJM, Ranchi. However, the impugned order dated 29.10.2011 (Annexure-8), whereby the deputation of the petitioner has been cancelled suo moto and the order of repatriation was passed by RRDA only on the ground that case has been lodged against the petitioner. However, vide letter dated 24.12.2012, BISCAMAN requested to take back the deputed employee on the ground that more than four years have lapsed in respect of each deputation order and the employees should be repatriated on the term and conditions of the BISCAMAN.

4. At the outset, learned counsel for the petitioner submits that the petitioner has already retired from his service on 31.01.2017; as such, he is confining his prayer only to the extent for his salary for the period of he worked at RRDA because he is legally entitled for entire salary at par with other employees till the period he worked before the respondent-RRDA.

5. Mr. Nagmani Tiwari, learned counsel for the petitioner further submits that the impugned order as contained in letter No. 144 dated 29.10.2011, whereby the services of the petitioner was repatriated to his parent department/BISCAMAN was stayed by this Court vide order dated 23.11.2012, inasmuch status quo as on date was directed to be maintained by this Court. He further submits that pursuant to the status quo order, he continued to work with the department till the date of his retirement on 31.01.2017.

6. Mr. Prashant Kr. Singh, learned counsel for the RRDA vehemently opposes the prayer made in the instant writ application by submitting that the instant writ application has become infructuous, inasmuch as the issue involved in this case is with respect to absorption before RRDA, however, as per the statement of the petitioner himself he has retired from his service. He further submits that after the impugned order the petitioner has not worked with RRDA. However, he fairly submits that if at all any salary is not paid for the period he has worked with RRDA the same will be verified and shall be paid in accordance with law.

7. Heard learned counsel for the parties and after going through the materials available on record, it appears that the order of repatriation dated 29.10.2011 was challenged before this court on 30.11.2012 and order of status quo was granted on 23.11.2012. Now the petitioner is interested only for his salary for the period he worked with Respondent- RRDA. In this view of the matter, the instant writ application is, hereby, disposed of by directing the petitioner to file a representation before the Respondent No.5 and raise his grievance of salary for the period he worked with RRDA within a period of three months from today. If any such representation is filed before the Respondent No.5, the same shall be disposed of by a reasoned and speaking order after verifying the relevant documents in accordance with law. It goes without saying that the petitioner shall be entitled for entire salary and other legitimate dues for the period he worked with RRDA and the amount which will be found shall be paid to the

petitioner along with the statutory interest. It is made clear that the entire exercise shall be completed within the period of four months from the date of receipt of the representation.

8. With the aforesaid direction, the instant application is disposed of.