
(2006) 04 JH CK 0034

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4094 of 2005

Shambhu Prasad Sinha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 19-04-2006

Acts Referred:

Citation : (2006) 4 JCR 425

Hon'ble Judges : S.J. Mukhopadhaya, J;D.K. Sinha, J

Bench : Division Bench

Advocate : Prabhat Kumar Sinha, for the Appellant; M.K. Laik, Senior Standing Counsel-I, for the Respondent

Judgement

1. The petitioner, who was an Extra Clerk, was later on, appointed as Temporary Clerk on 22nd May, 1981 and ultimately superannuated from the services of the State on 31st January, 2003.

2. The present writ petition has been filed by him for a direction on the respondents to count the period, rendered by him as Extra Clerk, for the purposes of retiral benefits as also other benefits. He has placed reliance on a decision, rendered by a single Judge of this Court in the case of Kauleshwar Prasad v. State of Jharkhand and Ors. reported in 2004 (2) JCR 124 (Jhar).

3. It has been brought to our notice that against the aforesaid judgment, passed in the case of Kauleshwar Prasad (supra), the State of Jharkhand has preferred an appeal being LPA No. 488 of 2004, which was heard and disposed of along with another analogous case (LPA No. 512 of 2004) by judgment dated 5th April, 2006, wherein, the Division Bench having gone through the different guideline, issued by the State Government, held that the period, rendered by a person as Extra Clerk, cannot be counted for the purposes of pensionary benefits and thereby, set aside the judgment, passed by the learned Single Judge in the case of Kauleshwar Prasad (supra).

4. In view of the aforesaid judgment dated 5th April, 2006. passed in LPA No.

488 of 2004 State of Jharkhand Vs. Kauleshwar Prasad and Others, and analogous case, the respondents cannot be directed to take into consideration the services, rendered by the petitioner as Extra Clerk, either for retiral benefits or for the purposes of time bound promotion.

5. So far as the benefits of time bound promotion is concerned, the scheme, as was framed vide resolution No. 10770 dated 30th December, 1981 (paragraph 11 therein), has been withdrawn since 1st January, 1996 by Finance Department's resolution No. 3M-2-5-VE-PU-01/99-660/(F/2) dated 8th February, 1999. But, in the meantime, the petitioner, having completed 10 years of service on 21st May, 1991, can claim for consideration of his case for 1st time bound promotion as per the scheme of 1081. It has been informed that the Time Bound Promotion Scheme has also been replaced by a new scheme, known as Accelerated Career Progression Scheme, which has been given effect from 9th August, 1999 vide resolution, contained in Memo No. 3/S-6-(Pro)-02/2002-5207/Fi, Ranchi dated 14th August, 2002. As per the said scheme also a person is entitled to the benefits under ACP Scheme on completion of 12 years of service, which the petitioner has completed as back as on 21st May, 1993.

6. In the facts and circumstances while this Court is not inclined to grant relief to count the period of service, rendered by the petitioner as Extra Clerk, remit the case to the respondents with a direction to consider his case for granting 1st Time Bound Promotion under the old Scheme, 1981 (resolution No. 10770 dated 30th December, 1981) from the date, he had completed 10th year of service and, thereafter, to consider his case for the benefits under ACP Scheme from due date, if the benefits of Time Bound Promotion Scheme has been withdrawn since 1st January, 1996. A decision in this regard be taken within three months from the date of receipt/production of a copy of this order and the consequential benefits, if any, to which he is entitled, including the arrears of salary, arrears on re-fixation of pension, gratuity etc., if found payable, be made within two months thereof. The petitioner will produce a copy of this order before the Inspector General of Registration, Ranchi, with a copy to the District Registrar-cum-Deputy Commissioner, Hazaribagh, who will ensure compliance of the Court's order.

7. The writ petition stands disposed of with the aforesaid observations and directions.