
(2003) 09 JH CK 0133
In the Jharkhand High Court
Case No : L.P.A. No. 597 of 2003

Shankar Prasad Kedia

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 23-09-2003

Acts Referred:

Citation : (2004) 1 JCR 68

Hon'ble Judges : P.K. Balasubramanyan, C.J;R.K. Merathia, J

Bench : Division Bench

Advocate : Delip Jerath and O.P. Mishra, for the Appellant; P.K. Prasad, Senior Standing Counsel C.G., R.S. Mazumdar, G.A. and A. Allam, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the appellant, Mr. Jerath and Senior Central Government Standing Counsel, Mr. P.K. Prasad on behalf of respondent No, 4.
2. This writ petition relates to the cadre division in the Bihar Finance Service. After the Bihar Re-organisation Act, 2000 came into force, the cadre division was completed as regards this service on 13.8.2003. The writ petitioner, a Deputy Commissioner of Commercial Taxes, was working in Dumka and was tentatively allocated to the State of Jharkhand. According to the petitioner, he was shifted to Dumka towards the last phase of his service by the Central Government Notification dated 6.11.2000. According to him, he has been allotted to the reorganized State-Bihar and this was unjust and arbitrary, especially since he is going to retire on 31.7.2004. The petitioner, therefore, approached this Court with the writ petition challenging his allocation to the State of Bihar in the Cadre division.
3. We may notice here that regarding the cadre division in the State Administrative Service and the police service, this Court had refused to interfere with the cadre division but made an equitable direction that those officers who are working in Jharkhand and whose allotment to the Bihar Cadre had been

stayed by the learned Single Judge while admitting the writ petitions were to be allowed to retire within the State of Jharkhand and to that extent, the order effecting cadre division stands modified. In other words, this Court directed that those who are to retire by 31.5.2004 and who are enjoying the benefit of the interim order should be allowed to continue and retire in the State of Jharkhand.

4. In the light of that direction, it was argued on behalf of the appellant before the learned Single Judge that since the cadre division was finalized on 13.8.2003 and the appellant was to retire on 31.7.2004 within one year of the cadre division being finalised, the appellant should also be permitted to retire in the State of Jharkhand and to that extent the cadre division should be interfered with.

5. On behalf of the Union of India, it was pointed out that the appellant was permanent resident of Darbhanga, which is part of the Reorganized State of Bihar and the appellant should not have any grievance against his being allocated to his home State and, therefore, he was not entitled to any relief. Regarding the claim for equitable relief, it was pointed out that the Division Bench, in the case of the Administrative Service and the Police Department had made an equitable direction taking into account the interim order passed by the learned Single while admitting the writ petition and the Division Bench had clarified that the benefit was available to only those who had the benefit of interim order of this Court and to none other. It was submitted that, that was not a principle which could be extended as a precedent in all cases of cadre division. Before us, learned counsel for the Union of India added that the cadre division may take place in some Department only by 2006-07 and it could not have been the intention of the Division Bench that in all those cases, those who are to retire within one year, shall be allowed to continue in the State of Jharkhand.

6. These arguments are met by the appellant by submitting that heavens are not going to fall if some persons are allowed to continue in Jharkhand especially those like the appellant, who had been posted in Dumka within the State of Jharkhand just before the Reorganization actually took place and in exercise of an option.

7. If it were not for the fact that it may have general application, we would have been tempted to accept the submission made on behalf of the appellant but acceptance of the argument of the appellant is likely to open the Pandora's Box. Acceptance of the argument would mean that this benefit could be claimed by every officer, who has been allotted to a particular region with the finalisation of the cadre division as the starting point. In our judgment regarding the Administrative and Police Service, we have clarified that we are induced to make such a direction mainly influenced by the interim order of the learned Single Judge and taking note of the advantage obtained thereby, by some of the officers and furthermore and the fact that some of them retired during the pendency of the writ petition. We had also clarified that the equitable direction was not intended to apply to anyone else. Since, it involves a principle, we are not

satisfied that this analogy should be extended in the present case to grant relief to the appellant, especially considering that this is likely to occur again and again until bifurcation is completed in all the Departments in terms of the Bihar Reorganization Act, 2000, though, we see a point in submission of learned counsel for the appellant that normally an officer is given a posting before his retirement at the station of his choice. Though that argument has some persuasive value in appreciating that argument, we have to take note of the fact that it involves a principle, which may set a precedent. We are, therefore, satisfied that it would not be proper to accept the submission made on behalf of the appellant. Moreover, we find that the learned Single Judge followed the Division Bench decision and has refused to grant relief to the appellant. We cannot say that in doing so, the learned Single Judge has committed any error, which would justify our interference with his decision.

8. Thus, we are satisfied that no interference is warranted. We confirm the decision of the learned Single Judge and dismiss this Letters Patent Appeal.