
(2017) 05 JH CK 0045
In the Jharkhand High Court
Case No : 1379 of 2015

Shanti Kumar Jha

APPELLANT

Vs

The State of Jharkhand & Ors

RESPONDENT

Date of Decision : 11-05-2017

Acts Referred:

Citation : (2017) 05 JH CK 0045

Hon'ble Judges : H.C.Mishra, S.N.Pathak

Bench : DIVISION BENCH

Advocate : Binod Singh, B. Kumar

Judgement

1. Heard learned counsel for the petitioners and the learned counsel for the sole respondent.

2. The petitioners, Union of India through the Secretary (Water Resources, River Development & Ganga Rejuvenation), have challenged the order dated 22.08.2014, passed by the Central Administrative Tribunal, Circuit Bench, Ranchi, in CCPA/051/00005 of 2014, arising out of OA 211 of 2013(R), whereby the Central Administrative Tribunal has clarified that in the OA No. 160 of 2011(R), the Tribunal's order was to grant the applicants similar benefit as granted to the applicants of different O.As., of similar nature, decided by the other Benches of the Central Administrative Tribunal, and it was further clarified that whatever benefits were allowed to the applicants of those OAs, the applicants in OA 160 of 2011(R) are also to be granted same, and the order was directed to be complied within a further period of six months.

3. The facts of this case lie in a short compass. The sole respondent along with another applicant had earlier moved the Central Administrative Tribunal in O.A. No. 160 of 2011(R), wherein he claimed that he was appointed as Scientists "B" Junior Hydro Geologist in Central Ground Water Board on 4th July, 1997, and in the year 2003 he was eligible to be promoted as Scientists "C" which was denied to the applicants of OA No. 160 of 2011 (R). The said OA was adjudicated by the

Central Administrative Tribunal and it was disposed of in the following terms :-

"6. We have heard both the parties and perused the records. We find that the main issue involved in this case is whether the applicants, who were promoted to the post of Scientist "C" from the post of Scientist "B" on 24.7.2009 against the panel for the year 2003, though they were eligible for consideration to be promoted to the post of Scientist "C" from 1.1.2003 can get the benefit of promotion w.e.f. 1.1.2003 or not ? In this regard the applicants have referred various judgments passed by different Benches of this Tribunal wherein it has been directed to consider their cases to give the benefit of promotion from the date they were eligible to be considered and the respondents have also implemented those orders without challenging before the higher forum. In the written statement filed by the respondents they have admitted that though the applicants were eligible to be considered for promotion to the post of Scientist "C" from 1.1.2003 but due to the reason that the issue of promotion for the earlier period was kept in sealed cover by the UPSC as per the order of the different Benches of this Tribunal and finally when the Hon'ble Supreme Court had intervened, the UPSC opened the sealed cover in February, 2008 and declared the result of eligible officers of earlier batches and due to the fact that the case of the applicants along with others were not considered by the Board of Assessment. We do not find any force in the submission made by the respondents since there was no stay on the issue of consideration of the promotion of Scientist "C" or other posts for the candidates of later period. Thus, there was a clear laches on the part of the respondents for which the applicants should not suffer. We also observe that the respondents have already implemented the orders of the various Benches wherein there is a direction for giving promotion from retrospective date. We are satisfied that the issue involved in the instant case is squarely covered by the various judgments given by different Benches of this Tribunal as well as High Court.

7. In view of above, we are of the opinion that the applicants are entitled to get the benefits of the order passed by different Benches of this Tribunal on the same issue and the respondents are directed to consider their case and extend the benefit." (Emphasis supplied).

4. In spite of the said order passed by the Central Administrative Tribunal, the respondent was not given the benefit of promotion and in the meantime the other similarly situated persons were being promoted to the higher post. This compelled the respondent to approach the Central Administrative Tribunal again in O.A No. 211 of 2013 (R), which was disposed of by order dated 21.11.2013 in the following terms :- "We, therefore, dispose of this O.A, at admission stage itself without going into merits of the case, with direction to the respondents to pass order in compliance with the order passed in O.A No.160 of 2011 forthwith before the date of interview, i.e., 12th December, 2013 and if the applicant is found eligible to be called for promotion to the post of Scientist "D" under Flexible Complimentary Scheme, he may also be called for interview. On the other hand, if he not found suitable, a reasoned and speaking order be passed

for not calling him. Ld. Counsel for the applicant is at liberty to produce the copy of the order before the concerned authority expeditiously."

5. As even the said order was not complied with, the respondent was compelled to file the contempt petition being CCPA/051/00005/2014 before the Central Administrative Tribunal, for compliance of the earlier orders passed by the Tribunal. During the pendency of the contempt case before the Central Administrative Tribunal, a show-cause was filed by the respondents, who are the petitioners herein, stating that the applicants have been promoted to the post of Scientists "C" retrospectively, w.e.f. 01.01.2003, vide office order dated 12.12.2013, issued in compliance of the orders of the Tribunal. However, on the point of payment of arrears from the retrospective date they stated that the matter was referred to DOPT & Ministry of Law, and the DOPT had observed that in the instant case, the Circuit Bench of Central Administrative Tribunal was silent on the issue of payment of all consequential benefits including the arrears of pay and allowance on their ante dated promotion.

6. Faced with this situation the Central Administrative Tribunal clarified that the earlier order of the Tribunal was to give the applicants the same benefits as was granted to the applicants in the OAs decided by other Benches, i.e., OA No. 433 of 2010 decided by the Principal Bench, New Delhi on 17.11.2011, O.A. No. 189 of 2009 decided by the Jaipur Bench of the Central Administrative Tribunal on 12.11.2009 as also OA No. 1810 of 2007 decided on 09.07.2009. The Central Administrative Tribunal made it clear that the order clearly showed that whatever benefits have been allowed to the applicants of those OAs, are also to be granted to the applicants in OA. No. 160 of 2011(R). It is this clarification made by the Central Administrative Tribunal, which has been challenged by the petitioners in the present writ application.

7. Learned counsel for the petitioners submitted that the impugned order passed by the Central Administrative Tribunal is absolutely illegal, and it was not open for the Central Administrative Tribunal to clarify the order further in a contempt petition which has been done by the Central Administrative Tribunal. Learned counsel accordingly, submitted that the impugned order passed by the Central Administrative Tribunal is absolutely illegal and cannot be sustained in the eyes of law.

8. Learned counsel for the respondent on the other hand has submitted that there is no illegality in the impugned order, inasmuch as, the earlier order of the Tribunal passed in OA. No. 160 of 2011(R), was never challenged by the petitioners in higher forum and it attained finality. In the impugned order, only a clarification has been made by the Central Administrative Tribunal, and rightly so, in view of the fact that the earlier OA. No. 160 of 2011(R) filed by the respondent was disposed of by the Tribunal in terms of the decisions of the different Benches of the Central Administrative Tribunal, referred in the order, and it is only clarified that the respondent shall also be entitled to those benefits only. It is submitted by learned counsel for the respondent that filing of this

present application itself is an harassment to the respondent and this writ application is not maintainable.

9. Having heard learned counsels for both the sides and upon going through the record, we find that in order dated 18.09.2012 itself, passed by the Central Administrative Tribunal in OA No. 160 of 2011 (R), it was made absolutely clear by the Tribunal that denial of promotion to the applicants of that case was due to clear latches on the part of the respondents, for which the applicants should not suffer. The Tribunal also found that the case of the applicants before it was squarely covered by the various judgements given by the different Benches of the Tribunal as well as the High Court and accordingly, directed that the applicants were also entitled to get the same benefits of the order passed by the different Benches of the Tribunal on the same issue.

10. In that view of the matter, if the applicants in the different cases before the different Benches of the Central Administrative Tribunal were given the promotion with retrospective effect with all consequential benefits, there was no ambiguity in the order passed by the Central Administrative Tribunal, in OA No. 160 of 2011 (R), that the applicants were also entitled to the same benefits, and it is only this position that has been clarified by the Central Administrative Tribunal in its order dated 22.08.2014 passed in CCPA/051/00005/2014, which is under challenge in the present writ application. We find that there was absolutely no ambiguity in the order passed by the Central Administrative Tribunal in OA No. 160 of 2011 (R), as quoted above, and there was no scope of any further clarification, which appears to have been made in the order dated 22.08.2014 passed by the Central Administrative Tribunal, Ranchi Bench in CCPA/051/00005/2014, only by way of abundant precaution.

11. We are of the considered view that there was / is no scope for any challenge of the order dated 22.08.2014 passed by the Central Administrative Tribunal, Ranchi Bench in CCPA/051/00005/2014. We find and hold that the present writ application filed by the petitioners is absolutely a frivolous writ application, which should have been avoided by the petitioners at all costs. We accordingly, dismiss this writ application with the cost of Rs.25,000/- , which, we hereby, direct to be given to the sole respondent in view of this frivolous litigation, in which he has been dragged.