
(2008) 12 JH CK 0038
In the Jharkhand High Court

Shyamdhan Mahto

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 03-12-2008

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2009) 1 JCR 8

Hon'ble Judges : Ajit Kumar Sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajit Kumar Sinha, J.—The present writ petition has been filed for the following reliefs;

2. For issuance of an appropriate writ, order or direction in the nature of certiorari for quashing of an order dated 22.2.2003 as contained in Memo No. 181, issued under the signature of Chief Conservator of Forest-cum-Chief Coordinator, World Food Programme, Jharkhand, Ranchi, whereby and whereunder the First Time Bound Promotion given to the petitioner far back in the year 1993 with effect from 17.7.1992 in the time scale of Rs. 1320-2040/- has been cancelled after about three years of petitioner's retirement.

3. For quashing of that part of the order dated 12.7.2003 as contained in Memo No. 263 of the Divisional Forest Officer, World Food Programme Division, Chaibasa (Tasar), by which, the A.G. has been informed that Rs. 69,872/- is recoverable from the petitioner's retiral benefits to that effect necessary entry has been made in the service book and pension paper in utter violation of principle of natural justice as well as in violation of several judgments of the Hon'ble High Court as well as Hon'ble Apex Court as the petitioner has never been afforded any opportunity before passing the impugned order.

4. For issuance of an appropriate writ, order or direction, directing the respondents, particularly respondent Nos. 3 to 5 to finalise petitioner's pension

and pay the same on the basis of last pay drawn by the petitioner i.e. @ Rs. 5900/- per month without any deduction from the retiral benefits.

5. It appears that neither any notice was given nor any reason has been assigned for passing the punitive order and initiating a recovery from the petitioner's retiral benefit and recalling the earlier order dated 28.6.1993 even though the same was approved by the Office of the Accountant General who is the competent authority pursuant to the retirement.

6. Considering the aforesaid facts and circumstances of the case this writ petition is allowed to the extent that no recovery can be made for the payment which has already been done to the petitioner pursuant to his retirement. The impugned order dated 22.2.2003 contained in memo No. 181 issued under the signature of Chief Conservator of Forest has been passed without even issuing a show cause or affording any opportunity to the petitioner and it is a non-speaking order without assigning any reason. Even under Rule 202 of Jharkhand Pension Rules 1950 notice is required to be given before reducing/deducting the pension. Thus the impugned order dated 22.2.2003 is on the face of it, is arbitrary, illegal and violates the well settled cardinal principles of natural justice and also is violative of Article 14 of the Constitution of India and is accordingly quashed.

7. However, the respondents are at liberty to initiate proceeding for correcting the future retiral benefit in accordance with law after due compliance of the aforesaid cardinal principles of natural justice. This writ petition is, accordingly, allowed with the aforesaid liberty without any order as to costs.