
(2013) 04 JH CK 0145
In the Jharkhand High Court
Case No : WP (S) No. 798 of 2007

Sonaram Mahato

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-04-2013

Acts Referred:

Citation : (2013) 4 AJR 149 : (2013) 2 JLJR 640

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : P.C. Roy, for the Appellant;

Final Decision : Disposed Off

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the petitioner. The petitioner is seeking direction upon the concerned respondents for promotion to Grade-III from Grade-IV in respect of which, no final order has been passed for several years.

2. According to the petitioner, he was appointed on the post of Peon in the office of Kharkhai Bandh Pramandal No. 2 at Chaliyama in the District of Saraikella-Kharsawan and his services were made permanent on 14.11.1986. Subsequently, he was transferred to the office of the Executive Engineer, Quality Control Division, Chaliyama on the post of Peon in the year 1998 and again transferred to another division at Saraikella on the same post in the year 1998 itself. According to him, a reference was made by the Superintending Engineer vide Annexure-1 for consideration of the case of the petitioner along with few others for promotion to Grade-III from Grade-IV, it was followed by Annexure-2, letter of the Superintending Engineer, Research and Quality Control Circle, Adityapur, Jamshedpur dated 12.1.1990. According to him, though he has been appointed on the Grade-IV post but from the very beginning, the work of Grade-III post is being taken from him. In the year 2003, the Establishment Deputy Collector also sent letters to the Executive Engineer of the Rural Development Special Division,

Saraikella for considering his case for such promotion, but no decision has not yet been taken.

3. However, from the statements made in the Supplementary Counter Affidavit filed by the Executive Engineer, Rural Development Special Division, Saraikella, it is evident that the Government has invested the power to the Chief Engineer to appoint and promote the persons to Grade-III and Grade-IV posts. As per the prevailing direction, the Chief Engineer has been empowered to promote the persons from Grade-IV to Grade-III after convening the meeting of establishment committee in the month of June and December every year. It is further stated that there are no rules for conducting examination for such promotion and such exercise is to be undertaken by the Establishment Committee headed by the Chief Engineer. Accordingly, it has been stated in paragraph-8 to the supplementary counter affidavit that the case of the petitioner would be placed before the Establishment-Committee and proper decision will be taken by the Chief Engineer, Icha, Galudih Complex, Adityapur, Jamshedpur. As per the subsequent Supplementary Counter Affidavit filed on 22.8.2012, it has further been stated that the matter has been referred to the Chief Engineer, Icha, Galudih Complex, Adityapur, Jamshedpur vide letter no. 982 dated 9.7.2012 and letter No. 659 dated. 24.5.2011.

4. Learned counsel for the petitioner has relied upon a judgment delivered by a learned single Judge in the case of Manindra Kumar Sinha Vs. Mineral Area Development Authority and Others, , to submit that if an employee has continued for a number of years on Class-IV post but has been made to work on Class-III post, he can be said to have acquired an indefeasible right to be regularized in Class-III post and also pay scale of that post.

5. These facts, however, are to be ascertained by the Establishment Committee headed by the Chief Engineer concerned to ascertain the eligibility of the concerned employee like the petitioner for consideration of his case for promotion to Grade-III post on the ground that he has been made to work on Class-III post for a considerable length of time.

6. It appears that the matter relating to consideration of the case of the petitioner for promotion from Grade-IV to Grade-III has been referred for consideration by the Establishment Committee headed by the Chief Engineer, Water Resources Department, Adityapur, Jamshedpur. As per the statement made by the respondent-Executive Engineer, Rural Development Special Division, Saraikella, Water Resources Department is the parent department of the petitioner.

7. In such circumstances, without observing anything on the merits of the case, the matter is being remanded to the competent authority for taking appropriate decision in the matter. If no decision has been taken in respect of the claim of the petitioner till date, the petitioner shall bring into the notice of the respondent no. 2, the Administrator, Subarnarekha Project, Vikash Bhawan, Adityapur,

Jamshedpur for taking appropriate decision in the matter by requesting the concerned Chief Engineer to hold the meeting of Establishment Committee within a specified time.

8. Let the aforesaid exercise, if not concluded by now, be completed within a period of twelve weeks from the receipt of a certified copy of this order. It is however made clear that this Court has not gone into the merits of the case. This writ petition is disposed of in the aforesaid terms.