
(2010) 01 JH CK 0124
In the Jharkhand High Court

Sri Mahbir Prasad

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 13-01-2010

Acts Referred:

Citation : (2010) 01 JH CK 0124

Hon'ble Judges : D.N. Patel, J

Bench : Single Bench

Judgement

D.N. Patel, J.—Learned Counsel for the petitioner submitted that the petitioner has retired from the services of the respondents w.e.f. 31st May, 2005. Two fold prayers have been made in this writ petition, for getting retirement benefits like:

- (a) Difference in salary because of increase in pay scale;
- (b) Gratuity;
- (c) Two months salary;
- (d) Earned Leave; and
- (e) Amount towards repairing of the godown and;

second relief is to the effect that the petitioner was serving with respondent No. 3 and the age of the retirement was wrongly calculated by respondent No. 3, on the contrary, it ought to have been 60 years, as per the rules, regulations and the decision rendered by this Court and therefore, the services of the petitioner ought to have been notionally extended by this Court to two years and the petitioner will be given all monetary benefits, for those two years services.

2. I have heard learned Counsel appearing on behalf of the respondents, who has submitted that the difference in salary, gratuity, two months salary, earned leave amounts and repairing amount towards godown etc. shall be paid to the petitioner, after proper check of the dues and the amount legally payable to the petitioner and after considering the amount, which is to be received by the

present respondents, from the petitioner.

3. To this suggestion, learned Counsel for the petitioner, has no objection, but, it is insisted by the learned Counsel for the petitioner that the respondents must complete this process of calculation of the amount under different heads, as expeditiously as possible and practicable, preferably within a period of four weeks, from the date of receipt of a copy of this order.

4. Learned Counsel for the respondents vehemently opposed the grant of benefit of the two years of extension of services and he has submitted that the law helps those who are vigilant. The petitioner has retired on 31st May, 2005, and he has filed this writ petition much after his retirement i.e. on 27th June, 2008 and now therefore, he may not be given any benefit of extension of two years services on the basis of age of retirement from 58 years to 60 years and has relied upon the decision rendered by Hon'ble Supreme Court in the case of Chairman, U.P. Jal Nigam and Another Vs. Jaswant Singh and Another, , especially in paragraph 13 thereof, and has been submitted that the petitioner is not entitled to any benefit of extension of services and much less, for any monetary benefit for those two years. Moreover, he has not worked, at all, for those two years with the respondents.

5. Having heard learned Counsel for both the sides and looking to the submission made by the learned Counsel for the respondents, that amount towards difference in salary, gratuity, two months salary, earned leave amount and the amount towards repairing of godown, as alleged by the petitioner, shall be paid after proper calculation of the dues and the amount legally payable to the petitioner. This amount shall be calculated and will be paid to the petitioner, within a period of eight weeks, from the date of receipt of a copy of this order. So far as the extension of retirement age and benefits thereof is concerned, I see no reason to grant any relief to the petitioner for grant of any monetary benefit on notional extension of age of retirement. The petitioner is already retired on 31st May, 2005 and the petitioner has preferred this petition on 27th June, 2008. Learned Counsel for the petitioner has relied upon the fact that other employees of respondent No. 3 were given benefit by the order of this Court and their age of retirement was enhanced from 58 years to 60 years and therefore, this benefit may be extended to the present petitioner also and consequently, all the monetary benefits may also be ordered to be given to the petitioner. This contention is not accepted by this Court mainly for the reason that the petitioner has not filed any petition in time and has filed the petition, at much belated stage, after his retirement. Moreover, the petitioner has not joined himself to those petitioners, who were vigilant enough in filing their petitions before this Court. For no justifiable reason, the petitioner has not moved this Court, at all, after his retirement i.e. on 31st May, 2005, immediately. It has been held by the Hon'ble Supreme Court in the case of Chairman, U.P. Jal Nigam and Another Vs. Jaswant Singh and Another, , especially in paragraph 13, which read as under.:

13. In view of the statement of law as summarized above, the respondents are

guilty since the respondents have acquiesced in accepting the retirement and did not challenge the same in time. If they would have been vigilant enough, they could have filed writ petitions as others did in the matter. Therefore, whenever it appears that the claimants lost time or whiled it away and did not rise to the occasion in time for filing the writ petitions, then in such cases, the court should be very slow in granting the relief to the incumbent. Secondly, it has also to be taken into consideration the question of acquiescence or waiver on the part of the incumbent whether other parties are going to be prejudiced if the relief is grant. In the present case, if the respondents would have challenged their retirement being violative of the provisions of the Act, perhaps the Nigam could have taken appropriate steps to raise funds so as to meet the liability but by not asserting their rights the respondents have allowed time to pass and after a lapse of couple of years, they have filed writ petitions claiming the benefit for two years. That will definitely require the Nigam to raise funds which is going to have serious financial repercussions on the financial management of the Nigam. Why should the court come to rescue of such persons when they themselves are guilty of waiver and acquiescence?

6. In view of the aforesaid decision, the petitioner is not entitled to the monetary benefit, as claimed by him, for two years, on the basis of the extension of the age of the retirement and therefore, this claim of the petitioner, is hereby, dismissed.

7. In view of the aforesaid observations and directions, this writ petition is, hereby, disposed of.