
(2016) 02 JH CK 0095
In the Jharkhand High Court
Case No : Civil Review No. 85 of 2015

State of Jharkhand	Vs	APPELLANT
Ravindra Prasad Singh & Others		RESPONDENT

Date of Decision : 19-02-2016

Acts Referred:

Bihar Reorganisation Act, 2000 — Section 73

Citation : (2016) 2 JCR 473

Hon'ble Judges : Virender Singh, C.J. and Shree Chandrashekhar, J.

Bench : Division Bench

Advocate : Jay Shankar Tiwary, Advocate, for the Appellant; Ramit Satender, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

1. Seeking review of order dated 22.04.2014 in L.P.A. No. 511 of 2009 whereby, the appeal preferred by the State of Bihar stood allowed, the present review petition has been filed.
2. Heard the learned counsel for the parties and perused the documents on record.
3. The learned counsel for the State of Jharkhand submits that the Department of Personnel, Administrative Reforms and Rajbhasha, Government of Jharkhand was a necessary party however, without hearing the applicant, order dated 01.07.2009 in W.P.(S) No. 1068 of 2008 was passed and therefore, the present review petition.
4. At the outset, we notice that the State of Jharkhand was respondent no. 2 and different authorities of the Department of Road Construction, Government of Jharkhand were respondent nos. 3, 4 and 5 in the Letters Patent Appeal. A counter-affidavit was filed on behalf of the State of Jharkhand thus, it must be concluded that the stand of the State of Jharkhand was pleaded in the counter-affidavit filed in the Letters Patent Appeal.

5. The grievance of the writ petitioner was in respect of the conditions contained in notification no. 12730 dated 05.12.2007 which adversely affected his seniority. Order dated 22.04.2014 notices that the writ petition was filed by respondent no. 1 for a direction "to consider and take a decision" on his representation dated 16.01.2008 and in the said representation the respondent no. 1 had sought relaxation in the condition contained in letter dated 05.12.2007 or alternatively to permit him to join his post in the State of Bihar. The State of Jharkhand took a stand that the plea for relaxing the conditions contained in letter dated 05.12.2007 cannot be entertained unilaterally. It was pleaded that the Department of Road Construction, Government of Jharkhand was bound to follow the conditions imposed by the Home (Special) Department, Bihar. Paragraph No. 17 of the order dated 22.04.2014 notices the state of affairs in respect of cases of mutual transfer. The Letters Patent Court held that the conditions stipulated in order dated 05.12.2007 was binding on the respondent no. 1 and other employees and the protection under proviso to Section 73 of the Bihar Reorganisation Act was not available to the employees seeking mutual transfer. In the present petition also, the aforesaid factual aspect has not been denied and disputed by the applicant. However, a plea has been taken that the applicant filed affidavit dated 07.04.2014 which has not been noticed by the Court. We find that in the said affidavit also no new fact has been pleaded. In paragraph no. 14 of the said affidavit it is stated that in view of order dated 26.02.2009 in W.P.(S) No. 3844 of 2008, the Department of Personnel, Administrative Reforms and Rajbhasha, Government of Jharkhand issued memo dated 29.08.2009 withdrawing letter dated 19.07.2008. The said fact has been duly noticed in order dated 22.04.2014. We are of the opinion that the applicant had failed to make out a case for review of order dated 22.04.2014 in L.P.A. No. 511 of 2009. The order passed in the Letters Patent Appeal does not suffer from patent error on record. The present review petition is misconceived and resultantly, warrants dismissal.