

(2009) 02 JH CK 0075
In the Jharkhand High Court

Sukhram Tiwary	Vs	APPELLANT
The State of Jharkhand and Others		RESPONDENT

Date of Decision : 02-02-2009

Acts Referred:

Citation : (2009) 02 JH CK 0075

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—Heard the parties and with their consent this writ petition is being disposed of at this stage itself.

2. The petitioner retired from service as "peon" while posted in the District Consumer Forum, Chatra on 31.12.2003. He is challenging the letter dated 22.03.2005 contained in Annexure-7, issued by the President, District Consumer Forum, Chatra addressed to the office of the Accountant General, Jharkhand, Ranchi, whereby it was informed that the services rendered by the petitioner in the Bihar State Food and Civil Supplies Corporation, should not be counted towards his service rendered to the State Government in view of the fact that he was absorbed in Government service from 07.04.1997. The grievance of the petitioner is that the concerned respondents are treating him differently and he is being discriminated though his case is exactly similarly situated to the other employee namely Jugal Ram who has been allowed pensionary benefits which would be evident from Annexure-13 i.e. communication payment order whereas the petitioner is being denied the same benefit.

3. According to the petitioner, after being appointed along with other, he joined the service of Bihar Government as Night Guard on temporary basis w.e.f. 16.12.1965 but his service was terminated w.e.f. 05.04.1972. Thereafter, he was reappointed by the Deputy Commissioner as Night Guard on 18.11.1972 and he joined on 21.11.1972. Thereafter the State Government placed his service at the

disposal of the Bihar State Food and Civil Supplies Corporation and in pursuance thereof, he joined there on 08.07.1973. By a letter dated 15.03.1997, issued by the Department of Food, Supply and Commerce, Government of Bihar, Patna, the services of the petitioner was again placed at the disposal of the Deputy Commissioner, Chatra for appointing him as peon in the District Forum. On the basis of the letter of the Department of the Food, Supply and Commerce, the Deputy Commissioner appointed the petitioner on the post of peon in the District Forum, Chatra w.e.f. 07.04.1997 on the basis of absorption and the petitioner joined the said post on that very date from where he retired from services on 31.12.2003.

4. The petitioner applied for post retiral benefits after his retirement but the same has been rejected and the petitioner has not been allowed the pensionary benefits in view of the letter issued by the District Consumer Forum as contained in Annexure-7.

5. It has specifically been pleaded and stated by the petitioner that one Jugal Ram, who was also in the Bihar State Food and Civil Supply Corporation and his service was also transferred to the District Consumer Forum just like the petitioner, has been allowed the pensionary benefits whereas the petitioner has been denied the same.

6. Mr. S.K. Dwivedi, learned Counsel appearing for the petitioner invited my attention to the orders passed by Patna High Court in the case of Naresh Prasad Yadav v. The State of Bihar and Ors. C.W.J.C. No. 8111 of 2003, disposed of on 08.04.2005 and submitted that the Patna High Court, in an exactly similar case, directed the State authorities to compute the post retiral benefits of the petitioner taking his service in continuation and without break from 18.04.1972 to 31.12.2001 in so far as the qualifying period in terms of the said Government decision dated 12.08.1969 is concerned.

7. By filing a counter affidavit, though the claim of the petitioner has been controverted by the respondent State but as it appears that it has not been denied by the State Respondents that the said Jugal Ram, whose case is similarly situated to the petitioner, has been given the pensionary benefits.

8. Mr. Rajiv Ranjan, learned Government Advocate appearing for the State referring to Annexure-B to the counter affidavit i.e. the letter of the Government of Bihar, Department of Food, Supply and Commerce, dated 15.03.1997, very fairly submitted that the case of the petitioner as well as of Jugal Ram, who has been given the pensionary benefits stands on similar footings.

9. In view of the facts stated above, in my view, the petitioner cannot be discriminated and he also deserves the same treatment which has been given to the said Jugal Ram.

10. Accordingly, this writ petition is allowed. The letter date 22.03.2005 as contained in Annexure-7, issued by the President, District Consumer Forum,

Chatra is hereby quashed and the respondents are directed to give the benefits of full pension/family pension, gratuity as well as consequential benefits which have been given to the aforesaid Jugal Ram.