
(2005) 08 JH CK 0046
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5604 of 2001

Suphal Hansda

APPELLANT

Vs

High Court of Jharkhand and Others

RESPONDENT

Date of Decision : 10-08-2005

Acts Referred:

Citation : (2005) 3 JCR 531

Hon'ble Judges : Altamas Kabir, C.J.;R.K. Merathia, J

Bench : Division Bench

Advocate : Mrinal Kanti Roy, for the Appellant; R.S. Majumdar and A.R. Choudhary, for the Respondent

Final Decision : Dismissed

Judgement

Altamas Kabir, C.J.—In this writ application, the writ petitioner, who was a judicial officer and was last posted as Subordinate Judge, Civil Court, Palamau at Daltonganj, has prayed for expunction of the Annual Confidential Remarks recorded against him on 6th March, 1999 by the then District and Sessions Judge, East Champaran, Motihari, for the period 1998-99. In fact, the writ petitioner had made a representation on 20th April, 1999 for expunction of the said adverse Annual remarks, but the same was rejected by the Patna High Court. The writ petitioner has filed the instant writ application not only against such rejection, but also for expunction of the adverse remarks for the period 1998-99 and to allow him to continue in service till he attained the age of 60 years.

2. Appearing for the writ petitioner, Mr. M.K. Roy, learned counsel, submitted that notwithstanding the prayer made in the writ petition regarding extension of the services of the writ petitioner from 58 years to 60 years, he had instructions to confine the relief prayed for in the writ petition only to expunction of the said adverse remarks for the year 1998-99. Mr. Roy contended that the petitioner, who was posted as Subordinate Judge in East Champaran, was communicated such adverse remarks by the learned District and Sessions Judge regarding his

integrity. On representation being made before the Registrar General, Patna High Court, the said adverse remarks for the period 1997-98 were expunged by order dated 28th June, 1999.

3. Mr. Roy submitted that almost identical adverse remarks were again communicated to the writ petitioner for the years 1998-99 by the same officer without assigning any reasons in respect thereof. The writ petitioner once again made representation before the Registrar General, Patna High Court, on 20th April, 1999, but the same was rejected. A review petition filed by the petitioner before the Patna High Court on 24th April, 2000 does not appear to have been disposed of. Mr. Roy submitted that subsequently while posted as Subordinate Judge, Civil Court, Palamau at Daltonganj, the petitioner made further representation on 28th June 2001 for reconsideration and expunction of the adverse remarks in the Annual Confidential Report of the petitioner for the year 1998-99, but according to him, the same was not considered and he was denied the benefit of extension of the retirement age from 58 years to 60 years. Since even if the petitioner's age of superannuation had been extended to 60 years, he would have superannuated on 19th November, 2003, Mr. Roy submitted that he had instructions to confine his prayer only to expunging or expunction of the adverse remarks in the Annual Confidential Report for the year 1998-99.

4. Appearing for the High Court, Mr. R.S. Majumdar, learned counsel, submitted that as had been indicated in paragraphs 5 and 6 of the counter affidavit filed on behalf of the High Court, the petitioner was an officer of average merit and his integrity was also not beyond doubt. Furthermore, the remark of the Division Bench of the Patna High Court in CWJC No. 7357 of 1988 was also taken note of the Inspecting Judge while recording his remarks in the Annual Confidential Report of the petitioner on 15th November, 1997.

5. Mr. Majumdar submitted that not only had the Patna High Court twice rejected the petitioner's prayer for expunction of the adverse remarks contained in the Annual Confidential Report of the petitioner for the year 1998-99, but such prayer was also rejected by the Jharkhand High Court after creation of the State of Jharkhand. Mr. Majumdar submitted that in the circumstances, even the limited relief sought by the writ petitioner was liable to be rejected.

6. Although, the writ petitioner has confined his prayer in the writ petition to expunction of the adverse remarks in his Annual Confidential Report for the year 1998-99, we are not inclined to entertain such prayer having regard to the fact that such prayer had been rejected by two High Courts upon consideration of the materials available. The remarks made by the Division Bench of the Patna High Court as was recorded by the Inspecting Judge, as also the poor performance of the writ petitioner during his judicial career, appears to have weighed with the two High Courts in rejecting the petitioner's prayer to expunge the -adverse remarks against him and to allow him to continue in service till he attained the age of 60 years.

In out view, in the circumstances mentioned herein above, this is not a fit case for interference and we have no hesitation in rejecting the writ petition. However, there will no order as to costs.

R.K. Merathia, J.

I agree.