
(2010) 08 JH CK 0089
In the Jharkhand High Court

Sushil Kumar Dubey

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 30-08-2010

Acts Referred:

Citation : (2010) 4 JLJR 447

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Judgement

D.N. Patel, J.—This writ petition has been preferred mainly for the reason that the petitioner is not allowed to join Rural Works Department in pursuance of an order passed by the Under Secretary, Water Resources Department dated 11th February, 2010, which is at Annexure-7 to the memo of the present petition.

2. Counsel for the petitioner has argued out the case right from very beginning i.e. prior to suspension and after suspension and submitted that after revocation of the suspension of the present petitioner the order dated 11th February, 2010 at Annexure-7 has been passed and the petitioner is directed to join Rural Works Department and when the petitioner approached Rural Works Department to joint the post, the Executive Engineer refused to accept his joining and the Executive Engineer of Rural Works Department wrote a letter to the Under Secretary, Water Recourses Department dated 16th February, 2010 to the effect that he cannot accept the joining of the present petitioner because somebody else is already working on the said post and that somebody is respondent No. 8 in the present petition. Thus, one department of the Government i.e. Water Resources Department is sending the petitioner to Rural Works Department for joining (vide order at Annexure-7) whereas, the another department of the State of Jharkhand i.e. Rural Works Department is not accepting the joining of the present petitioner vide order at Annexure-11 to the memo of the present petition and therefore, the present petition has been preferred raising a grievance that where the petitioner should join.

3. I have heard Counsel for the respondents-State, who has submitted that

apparently, there is some anomaly in the understanding between the two departments and therefore, a direction may be given to the Secretary, Water Resources Department, who is respondent No. 2 to pass afresh order about posting of the present petitioner, as expeditiously as possible and practicable.

4. I have heard also Counsel for respondent No. 8, who has submitted that respondent No. 8, who is on deputation from parental department i.e. Public Works Department and has been posted in Rural Works Department, may not be disturbed after being replaced by the present petitioner.

5. Having heard Learned Counsel for both the sides and looking to Annexure-7 to be read with Annexure-11, it appears that one department of the Government i.e. Water Resources Department is sending the petitioner to join the duties at Rural Works Department whereas, Rural Works Department vide order at Annexure-11 is not allowing him to join and the Executive Engineer is advising the under Secretary, Water Resources Department, Government of Jharkhand that he cannot accept the joining of the petitioner at Rural Works Department. This type of situation ought to have been avoided by intervention of high ranking officers. It appears that the Secretary of Water Resources Department is unaware about all these situations and ultimately, the Government has to pay salary without taking any work from the petitioner and therefore, the Chief Secretary of the State of Jharkhand should take note of this type of orders passed by the two departments of the Government, which are at Annexure-7 and Annexure-11 as without taking any work from the petitioner, sizable amount is to be paid from a public exchequer towards the salary of the petitioner. It also appears that several letters including Annexure-10, have been written from the Superintending Engineer to the Executive Engineer, Rural Works Department, to ensure the joining of the present petitioner. These types of recommendation and tossing the petitioner from one department to another is nothing else, but, thoroughly a non-application of mind. Unnecessarily Government has to pay salary to the petitioner though no work is taken from him. Government is unable to utilise ability of the petitioner.

6. I therefore, direct the Chief Secretary of the State of Jharkhand to look into this type of situation and shall see that proper authority be directed to pass afresh order for posting of the present petitioner within least possible time. This posting will be done either by replacing respondent No. 8 or by giving fresh posting order of the petitioner, looking to the administrative exigency and looking to the public interest, as expeditiously as possible and practicable, preferably within a period of two weeks from the date of receipt of a copy of the order of this Court.

7. Registry is directed to send a copy of this order to the Chief Secretary of the State of Jharkhand.

8. In view of the above directions, this writ petition is disposed of.