

(2008) 07 PAT CK 0054
In the Patna High Court
Case No : LPA No. 401 of 2008

The State of Bihar and Others	Vs	APPELLANT
Suresh Jha and Others		RESPONDENT

Date of Decision : 15-07-2008

Acts Referred:

Citation : (2009) 1 PLJR 229

Hon'ble Judges : R.M. Lodha, C.J;Kishore K. Mandal, J

Bench : Division Bench

Advocate : Lalit Kishore and Piyush Lall, for the Appellant;

Final Decision : Dismissed

Judgement

1. We heard Mr. Lalit Kishore, AAG-III. The appeal suffers from delay of 34 days. For condonation thereof an interlocutory application (I.A. No. 3358 of 2008) has been made. Even if we condone the delay, we are of the view that the appeal at the instance of the State Government and its functionaries, is wholly frivolous and devoid of any substance.

2. The following facts are not disputed by the Additional Advocate General-III:

(i) That pursuant to State Reorganization, the State of Bihar was bifurcated into two States, namely, State of Bihar and State of Jharkhand on and from 15th November, 2000.

(ii) That the respondent No. 1 who was serving at that time within the territorial jurisdiction of the State of Jharkhand, gave his option for service in the State of Bihar within the prescribed period.

(iii) That the order of allocation by the State Advisory Council allocating State of Bihar to the respondent No. 1 was passed on 7th April, 2005.

(iv) That pursuant to the aforesaid allocation, the respondent No. 1 was relieved by the State of Jharkhand on 9.6.2005 and he joined the service in the State of

Bihar on 16.6.2005.

(v) That on 26.10.2004 the Government of Jharkhand raised the age of superannuation of its employees to 60 years.

(vi) That on 29th March, 2005 an order came to be issued by the Central Government that those who were posted in Jharkhand and have been allocated to the State of Bihar and who attained the age of 58 years between 26.10.2004 and 23.3.2005 shall be deemed to have superannuated on the attaining age of 58 years.

3. In the backdrop of the aforesaid admitted facts, it would be seen that the petitioner's service in the State of Jharkhand until he was relieved on 9.6.2005 did not suffer from any illegality. The 29th March, 2005 order issued by the Central Government could not operate adverse to the petitioner as by that time, he has not been allocated State of Bihar as per his option. It is an admitted position that by this time (i.e., 9.6.2005) when the respondent No. 1 was relieved by the State of Jharkhand, the State of Bihar had already enhanced the superannuation age of its employees to 60 years. The relevant date for finding out the age of superannuation, in the facts and circumstances, would be either 9.6.2005 when the State of Jharkhand relieved him or 16.6.2005 when he joined the service in the State of Bihar. On both these dates, the superannuation age has been enhanced by the State of Bihar to 60 years.

4. Seen thus, the consideration of the matter by the Single Judge cannot be faulted.

5. This appeal has no merit and it is dismissed in limine. This disposes of I.A. No. 3358 of 2008 and I.A. No. 3359 of 2008 as well.