
(2002) 11 JH CK 0024
In the Jharkhand High Court
Case No : CWJC No. 2502 of 2001

Udharan Chaudhary

APPELLANT

Vs

Jharkhand State Electricity Board and Others

RESPONDENT

Date of Decision : 22-11-2002

Acts Referred:

Citation : (2002) 11 JH CK 0024

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : R.P. Gupta and P.R. Agarwal, for the Appellant; I. Sen Choudhary and Ashok Kr. Jha, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—Heard the learned counsel for the-parties.

2. The petitioner seeks a, direction upon the respondents for payment of difference of gratuity and pension taking into account the entire service rendered by him in the State Electricity Board including the services rendered by him in the erstwhile Chaibasa Electricity Supply Company.

3. The petitioner was initially appointed as Electrical Supervisor by the Erstwhile Chaibasa Electricity Supply Company in the year 1961. The said company was finally taken over by the Bihar State Electricity Board. The petitioner retired from the service in 1997. It is contended that after the Erstwhile Company was taken over in 1975, the Bihar State Electricity Board prepared a list of the workers and sent it to the Account Officer, Sub-Regional Provident Commissioner's Office in 1982 for final withdrawal of the provident fund. The petitioner was paid his retiral benefits after retirement on the basis of the length of service rendered by him in the Board but pension and gratuity has not been calculated taking into account the services rendered by the petitioner in the Erstwhile Company.

4. The stand of the respondent-Board is that the General Provident Fund-cum-Pension Scheme was introduced in the Electricity Bard with effect from 6.11.1987

and prior to that the Contributory Provident Fund Scheme was applicable under which provision for grant of pension was not available. It is stated that the interim DCR gratuity was paid to the petitioner in 1998 and on final calculation the rest amount was also paid on the basis of twenty two and half years of service.

5. Taking into consideration the pleadings of the parties the only question that falls for consideration is whether the petitioner who admittedly rendered more than 36 years of service in the Erstwhile Company and the Bihar State Electricity Board, is entitled to gratuity and pension. The grievance of the petitioner is that the entire service period shall be calculated for the purpose of grant of pension and gratuity. This question was raised by one of the employees of the Board and the matter was finally decided by a Division Bench of the Patna High Court in CWJC. No. 1248 of 1992 (R) Bhagwati Prasad Sharma v. Bihar State Electricity Board and Ors., vide judgment dated 16.7.1992 in which their Lordships held as under :

"It has been contended on behalf of the petitioner that his case is covered by a decision of this Court rendered in CWJC No. 2150 of 1989 (R) disposed of on 10.12.1990, wherein it has been held by the learned Single Judge that an employee of the Board who was an employee of an establishment before taking over Ordinance. 1975, which was enacted into an Act in 1979, is entitled to get the amount of gratuity and pension for the whole of the period rendered by him in service including the period of service rendered by him in the erstwhile Electric Supply Company Limited. It has also been contended on behalf of the petitioner that the aforesaid judgment of the learned Single Judge has been affirmed in LPA No. 21 of 1991 (R) disposed of on 8.5.1991.

After considering the facts and circumstances of this case and taking, into consideration the judgments of this Court in CWJC No. 2150 of 1989 (R) and LPA No. 21 of 1991 (R), aforesaid, we find that the case of the petitioner is fully covered by those decisions, and we shall have no hesitation in holding that the petitioner is entitled to get the post retirement benefits to be fixed on the basis of total period of service rendered by the petitioner under the respondent-Board including the period of service rendered by him in the aforesaid establishment where he had worked from 1951 and which was taken over by the State Government under the Ordinance and the Act aforesaid."

6. The petitioner admittedly worked in the Chaibasa Electricity Supply Company and thereafter became the employee of the respondent-Board. The petitioner continuously worked for 36 years and retired in 1997. In my opinion the case of the petitioner is fully covered by the aforesaid Division Bench Judgment and consequently he is entitled to gratuity and also the pensionary benefits.

7. This writ application is, therefore, allowed and the respondents are directed to make arrangement for payment of difference of gratuity and pension and release the same in favour of the petitioner within a period of 3 months from the date of

receipt/production of a copy of this order.