

(2013) 06 JH CK 0004

Jharkhand High Court

Case No: WPS No. 212 of 2012

Rana Pratap Singh

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: June 11, 2013

Citation: (2013) 4 JLR 204

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Advocate: Ritu Kumar, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

Narendra Nath Tiwari, J.

In this writ petition, the petitioner has prayed for quashing the order dated 4.1.2012, whereby claim of his retirement age of 60 years has been rejected. The petitioner has also prayed for quashing the order dated 27.4.2011, whereby he has been made to retire with effect from 30.4.2011 on attaining the age of 58 years of age ignoring that similarly situated employees have retired after attaining the age of 60 years in view of judicial decisions and the follow up Government orders. The petitioner was an employee of Bihar State Construction Corporation. Some of the employees were sent on deputation to different provident fund offices. The date of retirement was earlier 58 years. The retirement age was enhanced from 58 to 60 years by the State Government in 2004. In spite of the same, an office order was issued by the respondents and communicated to the petitioner that he would retire on attaining the age of 58 years. Against the said order, the petitioner filed a writ petition being W.P.S. No. 5894 of 2011. The said writ petition was disposed of directing the respondents to consider the petitioner's claim and pass appropriate order. By the impugned order dated 4.1.2012, the respondents have rejected the petitioner's claim.

2. Mrs. Ritu Kumar, learned counsel appearing on behalf of the petitioner, submitted that the impugned order is wholly arbitrary and illegal and the ground mentioned therein is ridiculous. Before the said order was passed, there were number of judicial decisions holding that employees of Bihar State Construction Corporation would retire after attaining the age of 60 years in view of enhancement of age of retirement by the Government. One such order was passed by the Patna High Court in CWJC No. 6821 of 2009 (Uday Kumar vs. Bihar State Construction Corporation) as far back as on 23.6.2009 clearly holding that the age of superannuation of the employees of Bihar State Construction Corporation is 60 years. The same was also subsequently maintained in number of judicial decisions. On denial of the said benefit of enhancement of age, one Shivanand Jha filed a writ petition in this Court being WPS No. 3530 of 2008 (Shivanand Jha vs. Bihar State Construction Corporation). The said writ petition was allowed with cost. It was clearly observed in the said order that the respondent would not compel their employees to approach the court for the same relief as there were already judicial decisions that age of superannuation of the employees of the Corporation is 60 years. Learned counsel submitted that in spite of the said decisions and the observations, the petitioner's claim has been rejected on the ground that there is no material in support of the claim of the petitioner that the age of superannuation is 60 years. The order is, thus, liable to be quashed by this Court.

3. Learned S.C. 1, appearing on behalf of the respondents, submitted that at the time of passing the impugned order, those decisions were not placed before the concerned authority and as such the petitioner's claim was rejected in absence of any such material. He further submitted that the respondents shall consider those decisions and pass appropriate order.

4. Learned counsel for the petitioner replying to the said contention submitted that those orders were not only placed before the concerned authority but the same are also mentioned in the impugned order itself. In spite of the same, the said arbitrary order has been passed.

5. Having heard learned counsel for the parties and perused the record, I find that there are clear judicial decisions that the employees of the respondent-Corporation shall retire after attaining the age of 60 years in view of enhancement of age of retirement by the Government. The said order has been passed in the case of Uday Kumar vs. Bihar State Construction Corporation (CWJC No. 6821 of 2009) by the Patna High Court long back in 2009. This Court has also passed an order dated 17.12.2009 to that effect in the case of Shivanand Jha vs. Bihar State Construction Corporation (WPS No. 3530 of 2008). I find it clearly mentioned in the impugned order that those decisions were placed before the concerned authority. But despite the same, the impugned order has been passed rejecting the petitioner's claim on wholly frivolous ground that no document was submitted in support of his claim.

6. Considering the above, I find that the respondents have deliberately ignored the direction of this Court given in earlier decisions and have rejected the petitioner's claim on arbitrary ground. It was repeatedly held in the judicial decisions that the age of retirement of employees of the respondent-Corporation has been enhanced from 58 to 60 years and there was no legal ground for superannuating the petitioner on attaining the age of 58 years. The order is wholly arbitrary and illegal.

7. The impugned order dated 4.1.2012 is, accordingly, quashed. This writ petition is allowed with cost of Rs. 5,000/- (Five thousand). Since the petitioner has already attained the age of 60 years by now, the respondents shall pay all consequential benefits, treating his retirement on attaining age of 60 years, within two months from the date of receipt/production of a copy of this order.