

(2008) 06 JH CK 0019

Jharkhand High Court

Case No: None

Nagendra Thakur

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: June 17, 2008

Citation: (2008) 3 JCR 555

Hon'ble Judges: M.Y. Eqbal, Acting C.J.; Ajit Kumar Sinha, J

Bench: Division Bench

Judgement

@JUDGMENTTAG-ORDER

1. Heard the parties.
2. This appeal is directed against the judgment dated 6.3.2008 passed in W.P.S. No. 4523 of 2007 whereby learned single Judge dismissed the writ application holding that the claim for arrears of salary is stale claim inasmuch as the writ application was filed after 4-1/2 years from the date when cause of action arose.
3. Petitioner/appellant originally filed application in the Patna High Court being CWJC No. 10961/1996 claiming arrears of salary for the period August 1991 to January 1993 comprising of two periods from 22.8.1991 to 31.12.1991 and 01.01.1992 to 3.1.1993. During the period from August 1991 to January 1993 petitioner/appellant was transferred from one place to another. On 22.8.1991 he was transferred from Gaya to Ghatshila, where there was no vacant post was available. On 31.12.1991, petitioner/appellant was transferred from Ghatshila to Lohardaga. On 18.12.1992, petitioner was again transferred from Lohardaga to Ghatshila, where he joined on 3.1.1993. During the aforesaid period, petitioner/appellant was not paid his salary.
4. A Bench of the Patna High Court after issuing notice of the case held that there was no justification for withholding salary of the petitioner and the respondent was directed to verify the claim of the petitioner and if claim is found genuine, he shall be paid his salary. When the order was not complied with, a contempt proceeding

was initiated. However, during the pendency of the contempt proceeding, respondents considered the case of the petitioner and take a decision that so far first part of the period i.e. 22.8.1991 to 31.12.1991 is concerned, petitioner would be entitled to get his salary. So far second part of the period is concerned i.e. 1.1.1992 to 3.1.1993, respondents took decision that the period shall be treated as extra ordinary leave. The said decision was taken in 2003.

5. In course of argument, learned Counsel appearing for the State of Bihar submitted that arrears of salary for the first period i.e. 22.8.1991 to 31.12.1991 was sanctioned and paid by the State of Jharkhand. In our view, therefore, learned single Judge was not correct in holding that claim is stale.

6. So far claim of the petitioner for the period 1.1.1992 to 3.1.1993 is concerned, after considering the entire facts of the case, we do not find any justification in not paying the salary for the said period. Now, the State of Bihar as also the State of Jharkhand is shifting their liabilities upon each other for payment of salary to the petitioner/appellant.

7. We, therefore, direct the State of Jharkhand to pay the salary to the petitioner/appellant for the period from 1.1.1992 to 3.1.1993 and claim adjustment from the State of Bihar as agreed upon.

8. It goes without saying that since the petitioner is fighting for the last so many years, it is desirable that the amount be paid within two months from today.

9. Let a copy of this order be handed over to Mr. P. Modi. G.P.I.