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(2009) 11 JH CK 0045

Jharkhand High Court

Case No: None

Raj Kumar Neeraj	APPELLANT
Vs	
Ranchi Kshetriya Gramin Bank and Chairman, Ranchi Kshetriya Gramin Bank	RESPONDENT

Date of Decision: Nov. 6, 2009

Hon'ble Judges: Amareshswar Sahay, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Amareshwar Sahay, J.
Heard Mr. Saurav Arun, learned Counsel for the petitioner and Mrs. M.M. Pal, learned Counsel for the respondent Bank.

2. The petitioner prays to quash the order dated 09/02/1994 (Annexure-6) passed by the Respondent No. 2, the Chairman, Ranchi Kshetriya Gramin Bank, whereby the salary paid to the petitioner during the period from 06/02/1991 to 25/06/1991 has been ordered to be recovered. The petitioner has also challenged the order dated 07/04/2003, passed by the Chairman, i.e. Respondent No. 2, contained in Annexure-11 to this writ petition, whereby the representation filed by the petitioner has been rejected and the order passed earlier on 09/02/1994 (Annexure-6) has been affirmed.

3. The claim of the petitioner is that he met with an accident near a temple on Ranchi-Hazaribagh road at Kokar on 05/02/1991 and got fracture injuries. On medical advice, he was bed ridden till 25/06/1991. After recovery from his illness he filed an application for grant of special leave for the period of his absence, i.e. from 06/02/1991 to 25/06/1991 before the Chairman. By order contained in Annexure-6 dated 09/02/1994, the petitioner was informed that pursuant to the decision taken by the Board of Directors in its meeting held on 13/12/1993, the application for special leave as requested by the

petitioner was not sanctioned and the period 06/02/1991 to 25/06/1991 would be treated as extra ordinary leave without salary.

4. The petitioner challenged the said order dated 09/02/1994 before this Court by filing CWJC No. 81/19994 (R) and this Court by order dated 19/08/2002 contained in Annexure-8 to this writ petition, held that the petitioner"s absence for he aforesaid period, i.e. 06/02/1991 to 25/06/1991 without any prior permission of leave should be construed as an unauthorized absence and the writ petition was dismissed with observation that if excess amount have been ordered to be recovered there is no illegality.

5. The petitioner, thereafter, filed LP.A. No 524/2002. The order of Single Judge was modified to the extent that the petitioner was given liberty to make a fresh representation to the Chairman of the Bank and the Bank was directed to dispose of the representation within six weeks after ascertaining the facts as to whether the petitioner met with an accident while performing the duty of the Bank and, whether the period of his absence can be treated as having been spent on duty.

6. The petitioner, thereafter, tiled representation before the Chairman. The Chairman by the impugned order dated 07/04/2003 contained in Annexure-11, after considering the case of the petitioner and on consideration of materials on record came to the following conclusion, which is quoted herein below:

(i) During personal hearing dated 24.3.2003 you failed to submit any proof/evidence about your being on official duty on 5.2.91 when you were specifically asked by the undersigned in this regard.

(ii) You were given an opportunity earlier also to produce proof/evidence in support of your claiming to be on official duty on 5.2.91 vide Head Office letter No. BS:MKS:310 (Hindi) dated 21.8.93 issued by the then Chairman.

Therefore, your version can not be accepted by the undersigned that you met with an accident while on official duty on 05.2.1991 without any documentary evidence.

From the facts and circumstances there is no scope to interfere in the order dated 09.2.94 passed by the then Chairman and the aforesaid order dated 09.2.94 will continue to be in force whereby your absence from 06.2.91 to 25.6.91 was treated as unauthorized absence and no special leave was sanctioned to you. Also you had no leave to your credit at that time.

Now, therefore, the undersigned orders that your aforesaid absence from 6.2.91 to 25.6.91 will be treated as unauthorized absence and no special leave will be sanctioned. It is further ordered that your salary for the aforesaid period will be recovered in equal installments of Rs. 1000/- from the month of May 2003.

7. The conclusion of the Chairman appeal"s to be justified because the petitioner, in spite of opportunity given to him, failed to submit any proof/evidence about his being on official duty on 05/CW1991, while he met with an accident. Such finding of fact, arrived at by the Chairman, does not appear to be erroneous so as to call for any interference by this Court in its writ jurisdiction.

8. Accordingly, having found no merit, this writ petition is dismissed. However, there shall be no order as to cost.