

(2010) 03 JH CK 0044
Jharkhand High Court
Case No: None

Bikrama Singh

APPELLANT

Vs

The State of Jharkhand,
Secretary Water Resources
Department, Government of
Jharkhand, Commissioner,
Finance, Government of
Jharkhand and Deputy Collector,
Irrigation Revenue Division

RESPONDENT

Date of Decision: March 22, 2010

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Judgement

D.G.R. Patnaik, J.

Heard counsel for the parties.

2. Petitioner in this writ application has prayed for a direction for quashing the office order dated 23.12.2003 (Annexure-18) issued under the signature of the Respondent No. 2 whereby and whereunder the pay scale which was earlier sanctioned to the petitioner vide office order dated 18.08.2003, has been cancelled

A further prayer has been made for issuing a direction upon the respondents to forthwith fix the final pension of the petitioner on the basis of the scale sanctioned as per the aforementioned office order dated 18.08.2003 and also for a direction to release the entire arrears of pension on the basis of the aforesaid scale besides releasing the full and final pension to the petitioner.

3. The facts of the petitioner's case is that he had joined on the post of Junior Accounts Clerk in the office of the Superintending Engineer, Public Works Department, Chhotanagpur Zone, Ranchi on 04.05.1965.

Subsequently, due to the abolition of some of the Circle and Division Offices under the Public Works Department, the petitioner on being found to be surplus employee, was absorbed in the Revenue Division, Ranchi pursuant to the orders of the Deputy Collector, Revenue Division, Ranchi on and from 16.12.1967. Upon his release by a formal order passed by the Executive Engineer, Public Works Department, the petitioner's service as a Junior Accounts Clerk in the Revenue Division was confirmed.

4. The petitioner's further contention is that in the Revenue Division, Ranchi, altogether five posts of Junior Accounts Clerk including the post of Cashier was sanctioned initially and all such posts were made permanent with effect from 01.09.1974.

The scales applicable to the Junior Accounts Clerk and Senior Accounts Clerk were fixed by the order of the Additional Secretary-cum-Special Officer, Irrigation dated 19.05.1978. Later, the pay scales of both the Senior and Junior Accounts Clerks were merged on and from 01.05.1980.

Upon the 4th Pay Revision, the petitioner's salary was fixed on the scale of Rs. 730-1080/-. The petitioner was given the benefit of first time bound promotion on and from 18.11.1989 along with corresponding enhancement in his pay. Subsequently, pursuant to the 5th Pay Revision, his salary was re-fixed at Rs. 1400-2600/- on and from 01.01.1986. In due course, the benefit of second time bound promotion was also given to him which he continued to receive till June 1998.

The petitioner eventually superannuated from service from the post of Accounts Clerk on 31.01.2003.

5. The petitioner's grievance is that since after the date of his retirement, in spite of repeated representations, his pension has not been fixed and on the other hand, by the impugned order (Annexure-18) issued on 23.12.2003, after the petitioner's retirement, an erroneous stand has been taken by the respondents that the post of Junior Accounts Clerk in the Revenue Division, Ranchi was never sanctioned at all and therefore the pay scale which was given to the petitioner on 18.08.2003 has been cancelled.

6. Learned Counsel for the petitioner explains that the aforesaid stand taken by the respondents is totally non est and is misconceived in view of the fact that vide order dated 10.02.2003 passed by the Director, Revenue Division, Government of Bihar, it has been confirmed that the post of Accounts Clerk was subsequently created exclusively for the Revenue Division, Ranchi.

Learned Counsel argues further that in the light of the order dated 10.02.2003 (Annexure-16), the impugned order dated 23.12.2003 is totally misconceived and misleading and as it appears, the concerned authorities of the respondents have not taken into account the order dated 10.02.2003.

Learned Counsel adds further that though in the counter affidavit the same stand has been taken as reflected in Annexure-18, but no answer has been given by the respondents to the petitioner's claim on the basis of the order dated 10.02.2003 (Annexure-16).

7. On hearing the submissions of the learned Counsel for the parties and on going through the documents on record, I find that admittedly the petitioner was appointed as Junior Accounts Clerk and his services were engaged in the Revenue Department of the Ranchi Division from where he retired in January, 2003. The order dated 10.02.2003 (Annexure-16) confirms undisputedly that the post of Junior Accounts Clerk was specifically sanctioned for the Ranchi Revenue Division. The counter affidavit of the respondents does not advert at all the aforesaid order dated 10.02.2003 as passed by the Director, Revenue Administration. As it appears, the above order dated 10.02.2003 has been overlooked. Perhaps the same was not within the knowledge of the concerned authority who has passed the impugned order (Annexure-18).

8. Considering the above facts and circumstances, the impugned order (Annexure-18) is hereby set aside. The Respondent No. 2 is directed to reconsider the petitioner's case in the light of the order (Annexure-16) and pass an appropriate order regarding fixation of the petitioner's final pension within two months from the date of receipt/production of a copy of this order. The respondent No. 2 shall also ensure that the pension is fixed on the basis of the last pay drawn by the petitioner on the date of his retirement and the payment thereof is made to the petitioner within two months from the date of decision taken on the issue, as directed above.

With these observations, this writ application is disposed of.

Let a copy of this order be given to the counsel for the respondent State.