

Gautam Kumar Vs Birsa Agriculture University and Others

Court: Jharkhand High Court

Date of Decision: Aug. 20, 2008

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Judgement

D.G.R. Patnaik, J.

Prayer in this writ petition has been made for issuance of a writ of mandamus directing upon the respondents No. 2 &

4 to accept the joining of the petitioner w.e.f 16.3.2007 and for a direction to pay the salary to the petitioner w.e.f. 1.4.2006 with interest @ 18%

per annum and further a direction to the respondent No. 2 to dispose of the representation dated 5.10.2007 filed by the petitioner within the

stipulated time frame after giving an opportunity of hearing the petitioner.

2. The petitioner was appointed on 16.7.2004 under the notification issued by the Vice-chancellor, Birsa Agriculture University, Kanke, Ranchi on

the post of Junior Scientist-cum-Assistant Professor (Soil Science) on the pay scale of Rs. 8000-275-13500/- with usual allowances and was

posted under Zonal Research Station, Darisai under Birsa Agriculture University, which is situated in the district of Singhbhum East. The

petitioner's joining was accepted initially on the vacant post of Farm Superintendent, Zonal Research Centre, Darisai and later, on the vacant post

of Junior Scientist-cum-Assistant Professor from 10.9.2004.

3. The petitioner's contention is that he continuously worked at Darisai and was duly paid salary till March 2006, and thereafter his salary has been

stopped without assigning any reason whatsoever, though the petitioner had continuously worked till 13.9.2006. It is further explained that on

14.9.2006 the petitioner had applied for casual leave for two days which was permitted by the then Associate Director Research, Zonal Research

Station, Birsa Agriculture University, Darisai. However, the petitioner could not resume his duties after the period of two days' casual leave on

account of his illness and therefore, he posted a letter 17.9.2006 explaining reasons and praying for further medical leave on the ground that he had

suffered from Slip Disc. During the period of his ailment, the petitioner forwarded a letter dated 22.1.2007 to his superior officer explaining the

condition of his ailment and the advice of the doctor for complete bed rest. Ultimately, he recovered from his illness and submitted his joining letter

before the respondent No. 4 on 16.3.2007 along with the Medical Certificate issued by the Doctor. After the date of his joining the petitioner has

been working regularly. However, on 12.4.2007 he was served a letter issued by the Respondent No. 4 asking him to submit his joining letter. In

response, the petitioner gave a copy of the original joining letter on 12.4.2007 to respondent No. 2. When he was again called for submission of

joining letter, the petitioner again submitted a copy of his original joining letter dated 16.3.2007 along with the Medical Certificate on 25.4.2007. In

spite of the repeated submissions of joining letter each time the petitioner was informed by the respondent No. 4 that since he has not submitted his

joining letter, it is deemed that he has absented from duty.

The further contention of the petitioner is that though he has been continuously working and has been signing on the attendance register, his

attendance has not been acknowledged. On the contrary a deliberate allegation has been leveled against him that he has absented from his duty

willfully from 16.9.2006, and on such ground his prayer for casual leave for two days made on 21.9.2007 on the ground of daughter's illness, was

also rejected.

Learned counsel for the petitioner, while referring to annexure-15 series of the writ petition, explains that the petitioner has been rendering his

service and signing on the attendance register continuously, but with malafide motive and intention the respondents have not been acknowledging

the same and have taken the same ground for refusing payment of salary to the petitioner, which has been illegally stopped from 1.4.2006.

Learned counsel for the petitioner explains further that pursuant to an interim order dated 1.5.2008 of this Court, whereby the respondents have

been directed to pay the salary to the petitioner for the period he is working, the respondents have paid Rs. 20,000/- (Rupees twenty thousand)

only.

4. Counter affidavit has been filed by the respondents wherein a persistent statement has been made in several paragraphs that the petitioner is a

habitual absentee and has not joined his duty for several months together. The learned Counsel for the respondents explains that the petitioner has

been paid his salary for the period he has served and has not been paid his salary for which period he has not served at all.

5. From the contents of the writ petition, it appears that the petitioner has specifically stated, while referring to annexure-15 series, that he has been

rendering his service and attending his duty regularly and had also been marking his attendance on a separate sheet of paper supplied by the office

of Assistant Director, and yet the respondents have not acknowledged the services on flimsy grounds and have refused to pay the salary.

6. In the counter affidavit there is no reference whatsoever to the statements made by the petitioner in respect of annexure-15 series, as made in

the writ petition. Apparently, the respondents have not denied the genuineness of the documents marked as annexure-15 series and have not

specifically denied that the petitioner has not been working continuously for the period stated by him.

7. From the facts and circumstances of the case it appears that the matter concerns a dispute regarding the period which the petitioner had served

on duty. Admittedly, no action whatsoever has been initiated by the respondents against the petitioner on the charge of willful absence or any other

charges.

8. In the light of the above facts and circumstances, the concerned respondents are directed to consider the documents filed by the petitioner

including the letter of joining claimed by the petitioner to have been submitted to the In-charge of the office on 16.3.2007 and the subsequent

letters of the petitioner, in response to the office orders and to assess the period for which the petitioner had actually worked and to pay to the

petitioner the salary which is due to him for such period. The respondents shall also accept the petitioner's joining duty by making a specific written

communication to the petitioner in this regard. Respondent No. 2 is directed to consider all the aspects and pass a reasoned order after giving an

opportunity of hearing to the petitioner within one month from the date of receipt of this order.

9. With these observations, this writ petition is disposed of.

Let a copy of this order be handed over to the counsel for the respondents.