

(2010) 05 JH CK 0036

Jharkhand High Court

Case No: None

Prem Chandra Prasad

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: May 14, 2010**Citation:** (2010) 4 LJLR 585**Hon'ble Judges:** Dhirubhai Naranbhai Patel, J**Bench:** Single Bench

Judgement

D.N. Patel, J.

Learned Counsel for the petitioner submitted that the petitioner is a Class IV employee. Upon bifurcation of the State of Bihar and State of Jharkhand, in pursuance of Bihar Re-organization Act, 2000, an option was given to the petitioner to opt for cadre, either at the State of Bihar or at the State of Jharkhand. The petitioner opted for the State of Bihar and in pursuance of the Government policy at Annexure 5 to the memo of petition dated 2nd November, 2007, so far as Class IV employees are concerned, they must be allotted the cadre as per their choice and as per their option. Despite the fact that the petitioner opted for allocation of the cadre of the State of Bihar, the petitioner has been allocated the State of Jharkhand and, therefore, the present writ petitioner has been preferred for getting a writ of mandamus upon the respondents, so that the petitioner may be given or may be allocated the cadre of the State of Bihar.

2. Learned Counsel for the respondent-State of Jharkhand submitted that now a detailed counter affidavit has been filed, wherein, it has been stated at paragraph Nos. 5, 6 and 7 as under:

5. That the main contention of the petitioner is that during the process of bifurcation of State of Bihar under Re-Organization Act, 2000, he had opted for the State of Bihar for allocation of his cadre, but, however, contrary to his option, his services was finally allocated to the State of Jharkhand. In the light of the aforesaid allocation, the petitioner was served with transfer order vide S.E. East Bihar, Road

Circle, Bhagalpur letter No. 675 dated 31.3.2006. It is admitted fact that the petitioner has represented in the light of the decision of the Government of India vide letter No. 14(c)/03/2006-SR(S) dated 02.11.2007.

6. That it may not be out of place to mention that the State of Bihar, being the nodal State in the matter of cadre Division, the representation of the petitioner along with other Class-IV employees were sent to the Deputy Secretary, Home (Special) Department, Bihar, Patna vide R.C.D., Jharkhand letter No. 5529(S)WE dated 8.8.2008.

Copy of the said letter
No. 5529(S)WE dated 8.8.2009
is annexed herewith and
marked as Annexure-A to this
counter affidavit.

7. That in response thereto it has been informed vide letter No. 13962(S) dated 29.10.2008 by the Road Construction Department, Government of Bihar, Patna that there is no vacant post of Class-IV employees under Road Construction Department, Bihar, Patna. No information regarding final decision, if any, in this regard by the Government of Bihar, has been received so far.

3. In view of the aforesaid submissions, the representation of the present petitioner along with others was sent to the Deputy Secretary, Home (Special) Department, Bihar, Patna, vide letter dated 8th August, 2008 and the State of Bihar, which is nodal State, has to take a decision upon the representation of the present petition, so far as cadre allocation is concerned.

4. Learned Counsel for the State of Bihar submitted that it will be a joint decision of the State of Jharkhand as well as the State of Bihar so far as the cadre allocation of the present petitioner is concerned, in pursuance of the policy decision, which is at Annexure 5 to the memo of petition and, thus, let a suitable direction be given to respondent No. 4 to take a decision within the stipulated, time, in accordance with law, rules, regulations, policies and the government enforceable orders. The State of Jharkhand will also cooperate with the decision taking process.

5. In view of the aforesaid submission, I hereby direct respondent No. 4 to take a decision upon the claim of the present petitioner for allotment of a cadre of State of Bihar, as per his option, given as per the policy at Annexure 5 to the memo of petition. Such decision will be taken by respondent No. 4 along with respondent No. 1, in accordance with law, rules, regulations, government policies and government enforceable orders, as expeditiously as possible and practicable, preferably within a period of sixteen weeks from the date of receipt of a copy of the order of this Court. The State of Jharkhand shall cooperate the decision taking authority in a process of taking decision upon the claim of the present petitioner.

6. This writ petition is, thus, disposed of, in view of the aforesaid directions.