

(2007) 12 JH CK 0022**Jharkhand High Court****Case No:** None

Sanjeev Kumar Mandal

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: Dec. 10, 2007**Citation:** (2008) 2 JCR 244**Hon'ble Judges:** M. Karpaga Vinayagam, C.J**Bench:** Single Bench**Judgement**

M. Karpaga Vinayagam, C.J.

The petitioner, who was working as Inspector of Mines, was promoted to the post of Assistant Mining Officer. The petitioner was allocated Jharkhand cadre and given posting of Inspector of Mines. Therefore he filed writ petition being W.P.(S) No. 3287/2005 for a direction to consider the case of regular promotion to the higher grade of Assistant Mining Officer with effect from 29.1.2001. In pursuance of the subsequent orders, he was granted promotion but without giving any effect to the earlier order of promotion. The matter was referred to Law Secretary and Advocate General for opinion; then the Mines Secretary ordered for placing the matter before the Departmental Establishment Committee for approving the promotion. Since no order is passed by the Establishment Committee, writ petition has been filed by the petitioner in W.P.(S) No. 3287/2005. The final order was passed by this Court on 10.7.2007 directing the Establishment Committee to pass an order of approval and further directed for posting and payment of salary. Despite the order passed by this Court, the Establishment Committee has rejected the proposal.

2. According to the respondents, the meeting of the Establishment Committee has been held on 10.8.2007 as per the order passed by this Court on 10.7.2007. The Establishment Committee took a decision that the petitioner cannot be promoted and order to that effect has been issued on 31.8.2007.

3. It is vehemently contended that the order passed by the Establishment Committee is not in consonance with the observations made by the learned Single Judge in the order dated 10.7.2007. The relevant observations of the learned Single Judge are as follows:

4. The objection of Mr.vema, appearing for the State of Jharkhand, that the Jharkhand is not bound by the decision of the State of Bihar, is liable to be rejected in limine, in view of the said order of Patna High Court and the subsequent orders passed by the authorities of the Bihar and Jharkhand. The State of Jharkhand was a party in the said writ petition. The State of Bihar passed order for promotion and paid the monetary benefits till petitioner joined at Jharkhand. After considering the relevant aspects, the Secretary Mines Department Jharkhand referred the matter to the Establishment Committee. It is not known under what circumstances, petitioner has not received any order passed by the Establishment Committee.

5. In the circumstances, the Secretary of Mines Department, Jharkhand, is directed to see that the matter of approval of the petitioner's promotion is placed before the Establishment Committee and a decision is taken thereon as early as possible and preferably within a period of one month from the date of receipt/production of copy of this order.

After order is passed by the Establishment Committee, the Secretary, Mines Department will also pass order with regard to posting and payment of salary to the petitioner without any delay. It may be noted that the order by which the petitioner was posted as Mines Inspector, Chaibasa, was stayed by this Court on 30.6.2005.

With these observations and directions, this writ petition is disposed of. However no costs.

4. Admittedly the above observations were not given due consideration by the Establishment Committee, while passing the order dated 31.8.2007 Hence, it is clear that the order dated 10.7.2007 has not been obeyed.

5. This Court feels that instead of taking action for contempt against the members of the Committee, who failed to consider and obey the order dated 10.7.2007 passed by the learned Single Judge, it would be appropriate to direct the Establishment Committee to reconsider its decision declining promotion to the petitioner in violation of the directions made by the learned Single Judge in the order dated 10.7.2007. Accordingly, the members of the Establishment Committee, who filed show cause before this Court, are directed to reconsider the earlier decision dated 31.8.2007 and pass a fresh order in consonance with the order passed by the learned Single Judge on 10.7.2007. The exercise must be completed within a period of three months from the date of receipt of copy of this order.

With these directions, this contempt application is disposed of.