

(2005) 03 JH CK 0064
Jharkhand High Court
Case No: WPS No. 1309 of 2005

Ram Pravesh Singh
and Others

APPELLANT

Vs

J.S.E.B. and Others

RESPONDENT

Date of Decision: March 21, 2005

Citation: (2005) 3 BLJR 1849 : (2005) 4 JCR 154

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Advocate: A.K. Verma, for the Appellant; D.K. Pathak, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

M.Y. Eqbal, J.

Heard the counsel for the parties.

2. In the writ application the petitioner seeks the following relief :

"That the instant writ application is being filed on behalf of the petitioner seeking great indulgence of this Hon"ble Court to issue high prerogative writ(s) of appropriate nature commanding and directing upon the respondents for grant of following reliefs :

(i) For direction to the respondents to fix the final pension on the basis of last pay drawn by the petitioner on the date of retirement i.e., on 11.11.1999.

(ii) For direction to the respondents to make payment of all the retiral dues such as P.F. gratuity, leave encashment as well as other dues on the basis of last pay drawn by the petitioner on the date of retirement i.e., on 1.11.1999 with up to date statutory interest apart from penal Interest @ 18% per annum from the date of retirement till the date of actual payment with appropriate cost.

(iii) For direction to the respondents to pay the arrears of pension after fixing the final pension of the petitioner.

(iv) For grant of such other relief or reliefs for which the petitioner would be entitled in the facts and circumstances of the case set-forth in the writ application."

3. It appears that by office order dated 9.12.1999 the petitioner was superannuated with effect from 30.11.1999 after completing the age of 60 years. When the respondents took step for recovery of the salary paid to the petitioner after 30.11.1998 till the date the petitioner worked i.e.. 30.11.1999, the petitioner filed WPS No. 1109/2002. The said writ petition was disposed of by order dated 3.2.2003 by passing the following order :

"Petitioner confined his relief only to the extent that respondents are not entitled to recover the salary paid to the petitioner after November, 1998. There is no such direction in the impugned order save and except the averments made in para 14 of the writ petition. Admittedly petitioner worked up to 30.11.1999 and in that view of the matter it would not be justified to recover the salary from the petitioner for the period he worked. With the aforesaid observation this writ application is disposed of. Needless to say that petitioner shall be paid atleast admitted retiral dues as expeditiously as possible."

4. It is well settled that if an employee continues in service even after attaining the age of superannuation, then the employer may not recover the salary which was paid to him after attaining the age of superannuation but for the purpose of fixation/ calculation of pension and retiral dues the last pay drawn by the employee on the date he actually superannuated from service shall be taken into consideration and not the last pay drawn by him beyond the date of actual superannuation.

5. In view of the settled principle of law the relief sought for by the petitioner quoted hereinabove, is wholly misconceived. This writ petition is accordingly dismissed.