

Ram Kishor Singh Arbind Vs. Labour

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Court : Jharkhand

Decided On : Mar-24-2017

Appellant : Ram Kishor Singh Arbind

Respondent : Labour

Advocate for Pet/Ap. : Mr. Manoj Tandon

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 407 of 2017 ..
Ram Kishor Singh 'Arbind' . Petitioner Versus 1. The State of Jharkhand 2.The
Principal Secretary, Labour Employment and Training Department, Government of
Jharkhand, Nepal House P.O & P.S. Doranda Dist. Ranchi 3. The Under
Secretary, Labour Employment and Training Department, Government of
Jharkhand, Nepal House P.O & P.S. Doranda Dist. Ranchi 4. The State of Bihar
through Secretary, Labour Employment and Training Department, Now Labour
Resources Department, Government of Bihar, New Secretariate Building, P.O &
P.S. Baily Road, Dist. Patna Bihar . Respondents CORAM: HON'BLE MR.
JUSTICE DR. S.N. PATHAK For the Petitioner : Mr. Ranjit Kumar, Advocate Mr.
Manoj Tandon, Advocate For the Respondents : Ms. Rajesh Kumar, Advocate 02/
Dated 24 th March, 2017 The petitioner has approached this Hon'ble Court with a
prayer to consider his representations regarding acceptance of joining, and for
grant of earn leave for the period from 04.07.2014 to 10.03.2015 and also
requesting to pay him salary with effect from 04.07.2014 to 10.03.2015 and also
from 11.03.2015 to till date. Factual Matrix Petitioner was appointed on the post of

Assistant Engineer (Mechanical), in Bihar State Cooperative Marketing Union (herein after referred to as 'BISCOMAN') in the then State of Bihar after following due process of law on 13.05.1982 and accordingly, he has joined his service on 14.05.1982. It is stated that since his joining the petitioner was discharging his duties to the best of his ability and to the satisfaction of the respondent authorities. In the year 1993, the organization BISCOMAN was undergoing a status of acute financial crunch and, therefore, the State of Bihar had taken decision to take over the services of qualified Engineers working in BISCOMAN. It is further stated that the services of ten engineers including this 2 petitioner was taken over and they were deputed in Labour, Employment and Training Department, Government of Bihar. It is further stated that out of ten engineers only four engineers were given posting in the said department and rest six engineers including this petitioner were kept waiting for posting. The said six engineers including this petitioner had preferred a writ petition being C.W.J.C. No. 2369 of 1998 before the Hon'ble High Court of Judicature at Patna for direction upon the respondents to give them an appropriate posting and also for payment of salary etc., who have been kept waiting for posting. Thereafter, the then State of Bihar with an intention to frustrate the genuine and bonafide claims of writ petitioner has issued notification no. 533 dated 07.12.1999, whereby all ten engineers were sent back to their parent organization BISCOMAN. By the said notification, four engineers (who had earlier been given posting) preferred separate writ petition bearing C.W.J.C. No. 12158 of 1999 before the Hon'ble High Court, Patna was pleased to stay the operation of notification no.533 dated 07.12.1999 so far as the petitioners in the writ petition were concerned, whereby writ petition was allowed and the notification no. 533 dated 07.12.1999 was quashed. Against the order dated 28.04.2011 the State of Bihar preferred one L.P.A being L.P.A. No. 344 of 2012 which is still pending. It has further been stated that the rest six engineers including this petitioner had preferred interlocutory application bearing I.A. No. 12867 of 1999 in their writ petition being C.W.J.C. No. 2369 of 1998 with the same prayer (as stated in C.W.J.C. No. 12158 of 1999). It has further been stated that in compliance of order passed by the Hon'ble High Court of Judicature at Patna, the then State of Bihar has issued memo No. 29 dated 25.01.2000 whereby implementation of notification no.533 was stayed till further order. In the same writ petition another interim order

was passed on 03.02.2000 whereby the Hon'ble Patna High Court directed the State of Bihar to give posting to these six persons and also release their salary. In compliance of said order, the then State of Bihar again issued notification bearing Notification no. 432 dated 30.06.2000, whereby the rest six persons including this petitioner were given posting and the petitioner was posted as Principal, Industrial Training Institute, Daltonganj subject to the final outcome of C.W.J.C. No. 2398 of 1998. At the time of bifurcation of the State of Jharkhand, the petitioner was posted in territory of State of Jharkhand where he served in different capacity. It is stated that the petitioner was transferred from the Post of Principal ITI, Daltonganj to the post of Principal ITI, Chaibasa and the petitioner took over the charges as Principal ITI, Chaibasa on 03.01.2012 and Principal ITI, SaraikellaKharsawan on 07.01.2012 as an additional charge. Then, vide notification dated 26.06.2014, the petitioner has been transferred to the post of Principal ITI Sahibganj. The petitioner being aggrieved by order of transfer has moved before this Hon'ble Court by filing a writ petition being W.P.(S) No. 3384 of 2014 which was dismissed vide order dated 14.07.2014. It is stated that against the said order the petitioner has preferred one Letters Patent Appeal being L.P.A No. 260 of 2014. In the meantime, the petitioner approached the respondent authority to give him posting on the transferred post. The petitioner was informed that vide notification no. 2053 dated 08.10.2014 his services was returned to State of Bihar. It is stated that the petitioner had filed one interlocutory application being I.A No. 5229 of 2014 in L.P.A No. 260 of 2014 for quashing of notification no. 2053 dated 08.10.2014. The respondent State of Jharkhand has filed a counteraffidavit to the I.A. No. 5229 of 2014 stating therein that the issuance of notification no. 2053 dated 08.10.2014 is a fresh cause of action which cannot be assailed in present proceeding. Subsequently, the petitioner came to know that vide letter no. 3278 dated 7.11.2014 the State of Bihar refused to accept the services of the petitioner and it was requested to the State of Jharkhand to accommodate the petitioner and, accordingly, issue a fresh notification. Vide representations dated 11.03.2015, the petitioner once again approached the authorities of State of Jharkhand to allow him to join on any appropriate post. It is stated that the petitioner was informed that due to the pendency of the 4 Letters Patent Appeal he cannot be allowed to join and he was advised to withdraw the appeal preferred by

him. Thereafter, the petitioner filed an interlocutory application for withdrawal of Letters Patent Appeal and the same was withdrawn vide order dated 27.08.2015. The petitioner had filed several representations before the respondent authorities, but, till date no order has been passed and hence, the writ petition has been preferred. Mr. Manoj Tandon, learned counsel for the petitioner submits that in spite of repeated representations to the respondent authorities and in spite of admitted fact that respondent no.2 Principal Secretary, Labour Employment and Training Department, Government of Jharkhand passed an order on his representation for acceptance of his joining on the condition that the acceptance will be subject to the order passed in L.P.A. No. 344 of 2012 and this order was passed in 27.01.2016. Learned counsel for the petitioner also argues that the salary of the entire period has not been paid to the petitioner and he was waiting for posting and even for salary for the period from 04.07.2014 to 10.03.2015, when the petitioner due to serious illness of his wife could not attend his services. Learned counsel for the petitioner submits that the respondent authorities have illegally and arbitrarily not accepted the joining of the petitioner and not considered the representations regarding joining and salary for the period of 04.07.2014 to 10.03.2015. On the other hand, Mr. Abhijeet Kumar Singh, learned J.C. to G.P.V., fairly submits that the case of the petitioner is under consideration. The respondent authorities have taken note of the recommendation/ order of the salary and they are going to consider the case of petitioner regarding the salary as well as joining. Learned counsel draws the attention of the Court towards paragraph nos. 8 and 17 of the counteraffidavit, wherein it has been specifically mentioned that the respondent authorities are considering the case of the petitioner for acceptance of joining and also for payment of the salary as prayer made in paragraph no.1 of the writ application. 5 Having gone through the rival submissions of the parties, this Court is of the considered view that the case of the petitioner needs consideration. In view of the fact, that the Principal Secretary, Labour Employment and Training Department, Government of Jharkhand has already considered the matter and passed an order of joining subject to condition as any order passed in L.P.A. No. 344 of 2012, I hereby direct the respondent authorities to consider the case of the petitioner in view of the recommendation of the Principal Secretary preferably within a period of twelve

weeks from the date of receipt of copy of this order. In view of the aforesaid observations, the writ petition stands disposed of. (Dr. S.N. Pathak, J.) Anjali/

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