

Chitranjan Singh Vs. State of Bihar and ors.

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Court : Patna

Decided On : Jun-23-2000

Judge : Sudhanshu Jyoti Mukhopadhaya, J.

Appeal No. : Civil Writ Jurisdiction Case No. 1977 of 1999

Appellant : Chitranjan Singh

Respondent : State of Bihar and ors.

Disposition : Petition Allowed

Prior history : Sudhanshu Jyoti Mukhopadhaya, J. 1. This application has been preferred by the petitioner against the order, contained in Memo No. 2373 dated 1st December, 1998 issued by the District Education Officer (D.E.O.), Vaishali, whereby and whereunder, the services of the petitioner have been terminated. 2. As the case can be disposed of on short point, it is not necessary to discuss all the facts, except the relevant one. 3. The petitioner was appointed as Peon on temporary basis by D.E.O., Sitamarh

Judgement :

Sudhanshu Jyoti Mukhopadhaya, J.

1. This application has been preferred by the petitioner against the order, contained in Memo No. 2373 dated 1st December, 1998 issued by the District

Education Officer (D.E.O.), Vaishali, whereby and whereunder, the services of the petitioner have been terminated.

2. As the case can be disposed of on short point, it is not necessary to discuss all the facts, except the relevant one.

3. The petitioner was appointed as Peon on temporary basis by D.E.O., Sitamarhi, vide Memo No. 2641-43 dated 22nd May, 1982 and was posted in Gokul Jagat High School, Narbari against the second post of Peon. Subsequently, he was transferred by Additional Director of Education, Tirhut Division, Muzaffarpur, vide order dated 2nd July, 1991 to one Sheo Nandan Gaya High School; Bakarpur (Vaishali).

4. After transfer of petitioner, he was not being paid salary for which communication was made by the Head Master of the School (Vaishali) on 12th August, 1991. The Director, Secondary Education, Bihar, in his turn, taking into consideration the transfer of petitioner allowed to accept the joining and ordered to release the salary, vide his letter No. 3162 dated 3rd September, 1991. Subsequently, after about seven years of such transfer and 16 years from the date of appointment, the Director, Secondary Education alleging the appointment of petitioner as illegal directed the D.E.O., Vaishali to give show-cause notice to petitioner and then to terminate his services, vide his letter dated 15th January, 1998. However, the show-cause notice was given to petitioner and the D.E.O., Vaishali merely directed the petitioner to produce service book by 17th April, 1998, vide his letter dated 13th January, 1998 giving reference of the Director's letter Dated 15th January, 1998. Therefore, the impugned order of termination was issued on 1st December, 1998. Though the D.E.O., Vaishali vide his earlier letter dated 18th April, 1998 intimated the Director, Secondary Education that the appointment was made, as back as in the year 1982 and on verification, after transfer of petitioner, salary was paid on the direction of the Director, Secondary Education.

5. In view of the fact that the petitioner continued in service for about 16 years; at least the Director, Secondary Education had knowledge of his appointment more than seven years prior to the issuance of the order of termination and the

impugned order has been issued without notice and hearing the petitioner, without giving specific reason showing illegality and impropriety in the matter of appointment, the impugned order dated 1st December, 1998 is fit to be set aside.

6. Accordingly, I set aside the impugned Memo No. 2373 dated 1st December, 1998, resulting reinstatement of petitioner to the post of Peon, without any liberty to the authorities to reopen the issue relating to legality and propriety of appointment, now more than 18 (eighteen) years having passed after the appointment.

7. The writ petition is allowed with aforesaid observations and directions. Petition allowed.

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