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Sanjay Singh and ors. Vs. State of Bihar and ors.

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Court : Patna

Decided On : Jan-08-2003

Judge : Chandramauli Kr. Prasad, J.

Acts : Service Law

Appeal No. : C.W.J.C. Nos. 5837, 5910, 7611 and 9478 of 2000

Appellant : Sanjay Singh and ors.

Respondent : State of Bihar and ors.

Advocate for Def. : Madhura Nand Jha, JC to GP IX and Wasi Akhar, Sr. Adv. for Respondent No. 2Raghunandan Pd. Sinha, Adv. for Corporation

Advocate for Pet/Ap. : Abhay Shankar Singh, Adv.

Disposition : Application allowed

Judgement :

Chandramauli Kr. Prasad, J.

1. In all these writ applications, common questions of law and facts arise and as such, they are being disposed of together.

2. These applications have been filed for quashing a portion of the orders of various dates, annexed as Annexure-9 in all the writ applications where by the

services of the petitioners have been terminated.

3. Shorn of unnecessary details, facts giving rise to the present application are that the petitioners were initially appointed on daily wages on different dates in the year 1996. It is the stand of the petitioners that their services have been regularised iateron. It seems that the matter of appointment of the petitioners and such other persons purportedly done illegally by the Gaya Municipal Corporation (hereinafter referred to as 'the Corporation') came to the notice of the State Government. Accordingly, the State Government directed the District Magistrate to constitute a

committee to examine the validity of the appointment of the petitioners. The committee duly constituted, found the appointment of the petitioners to be illegal. The State Government, in pursuance of the said report, issued direction to the Administrator of the Corporation to cancel the illegal appointment and promotion made after 8th of August, 1995, In pursuance of the aforesaid direction of the State Government, the Administrator gave show cause notice and ultimately, terminated the services of the petitioners by the impugned orders.

4. Mr. Abhay Shankar Singh, learned Counsel appearing on behalf of the petitioners in all the writ applications, raises a very short point. He submits that according to the counter affidavit filed on behalf of the Corporation, it is evident that the services of the petitioners have been terminated on account of the direction of the State Government, which has no authority and on this ground alone the orders impugned are vitiated in the eye of law. In support of his submission, he has placed reliance on an order dated 30th of March, 2000 passed in C.W.J.C. No. 5044 of 1999 (Manoj Kumar Singh v. The State of Bihar and Ors.,) and my attention has been drawn to the following passage from the said order.

'Following the aforesaid principle, this Court quashes the impugned order dated 5-5-1999 as contained in Annexure-1. But this Court gives liberty to the respondent Corporation to examine whether the initial appointment of the petitioner was in accordance with law and whether valid procedure was followed or not and if on examination of the same the respondent authority finds that it is not so, then he can issue show cause notice to the petitioner and then pass an order in accordance with law. As a result of quashing of the impugned order, the petitioner

should be reinstated in service within seven days from the date of receipt/service of a copy of this order but he should not be paid any thing by way of back wages between the period he was terminated from service and the date of reinstatement. Of course, this Court makes it clear that on reinstatement of service of the petitioner, his continuity and seniority in service should be maintained.'

5. It is relevant here to State that the aforesaid direction was rendered by this Court in respect of the employees of the Corporation itself whose services were terminated in view of the direction of the State Government. The cases of the petitioners are covered by the decision of this Court in the case of Manoj Kumar Singh (supra), and in that view of the matter, I have no option than to quash the impugned orders and direct for their reinstatement in service within seven days from the date of receipt/ service of a copy of this order. As in the case of Manoj Singh, I decline payment of back wages to the petitioners but their continuity and. seniority in service shall be maintained. I, however, give liberty to the respondent the Municipal Corporation to examine whether the initial appointments of the petitioners were in accordance with law and whether valid procedures were followed or not and if on examination of the same, it is found that the petitioners were appointed illegally, a show cause notice shall be given to them and order in accordance with law shall be passed. This exorcise must be completed within a period of four moths from the date the petitioners are reinstated in service.

6. Application stands allowed in the aforesaid terms.

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