

Yugal Rajak Vs. Eastern Coalfields Limited and ors.

Yugal Rajak Vs. Eastern Coalfields Limited and ors.

SooperKanoon Citation : sooperkanoon.com/516540

Court : Jharkhand

Decided On : Mar-17-2005

Reported in : [2005(3)JCR25(Jhr)]

Judge : N.N. Tiwari, J.

Acts : [Constitution of India](#) - Articles 14, 311 and 311(2)

Appeal No. : WP (S) No. 3387 of 2001

Appellant : Yugal Rajak

Respondent : Eastern Coalfields Limited and ors.

Advocate for Def. : Rajesh Lala, Adv.

Advocate for Pet/Ap. : Rajendra Prasad, Adv.

Disposition : Petition allowed

Judgement :

ORDER

N.N. Tiwari, J.

1. In this writ application, the petitioner has prayed for quashing the order dated 20.6.2001 passed by the General Manager, S.P. Mines Area (respondent No. 2) whereby the petitioner has been dismissed from his service and was further

directed to refund the total compensation paid against the land to the petitioner. According to the petitioner, his land appertaining to Jamabandi No. 10 of Mauza Bhawanipur No. 597, Taluque Phulchewan, P.S. Chitra, district Dumka, more or less measuring about 8.60 acres was acquired through the Land Acquisition Proceeding in I.A. Case No. 11 of 1987-88. The said land belonged to his mother's mother. The compensation was paid on acquisition of the said land. The petitioner claims himself to be the sole heir and legal representative of his maternal grandmother. On the basis of policy of the Company, the petitioner was given employment, on due consideration and verification of the records in 1984. Subsequently, his services were made permanent. One Parwati Devi filed a suit claiming 1/2 share in the land of the maternal grandfather of the petitioner in the Court of Sub-Judge I, Deoghar. In the said suit, neither the petitioner's mother nor the petitioner was made a party and behind their back the said suit was decided. The respondents on the said ground issued a show cause notice to the petitioner to explain as to how he could get employment against the land of Ghughni Rajak and Saraswati Rajak, mother's mother of the petitioner. The petitioner after going through the contents of the said notice came to know about the said Judgment and decree and filed an appeal being Title Appeal No. 14 of 2001 in the Court of District Judge, Deoghar with the leave of the Court. The respondents, without waiting for the result of the said Title Appeal, hastened to pass an order dated 20.6.2001 (Annexure 6) dismissing the petitioner from the service with immediate effect. The petitioner has alleged that before passing the said order of dismissal, the procedure established by law was not followed. The petitioner complained that the impugned order is wholly illegal and arbitrary. The petitioner has also specifically stated that the Title Appeal filed by him was allowed in his favour and the judgment and decree in Title Suit No. 52 of 1996 passed by the Sub-Judge Deoghar was set aside.

2. A counter affidavit has been filed on behalf of the respondents stating, inter alia, that the petitioner has played fraud and submitted incomplete family tree which led to the litigation. It was stated that in view of the decree passed in the title suit, the petitioner was not entitled to continue in the service. In the counter affidavit, it has not been stated that for the alleged fraud and misrepresentation any charge was framed against the petitioner or any departmental proceeding was initiated

informing him the charges. The learned counsel for the respondent firmly submitted that no charge-sheet was ever served and there was no departmental inquiry, and only on the ground of the judgment and decree of the trial Court whereby some share was declared in favour of the plaintiff of that suit in respect of the land against which the employment was given to the petitioner, the said order of dismissal was passed against the petitioner.

3. In my view any order of dismissal from service cannot be passed in the manner it has been done by Annexure 6. Admittedly, no charge-sheet was issued framing any charge of playing fraud and misrepresentation by the petitioner in getting the employment. The petitioner was not afforded any opportunity to defend himself before awarding punishment of dismissal from service on the allegation of committing fraud and mis- representation for getting employment which is the basic requirement of the principle of natural Justice. It has been now well settled that in the sphere of public employment, any action taken by the employer against an employee must be fair Just, reasonable and must conform to the rule of natural Justice. Article 311(2) of the Constitution does not permit any employer to dismiss any person without any enquiry, informing him of the charges and affording him reasonable opportunity of being heard in respect of those charges. The impugned order, Annexure 6, is, thus, violative of Articles 14 and 311 of the Constitution and not sustainable. Accordingly, the impugned order as contained in Annexure 6 is quashed. Since the petitioner was kept out of employment illegally and against his will and wishes, the petitioner shall be entitled to be reinstated with the back wages and consequential benefits.

4. This writ application is allowed.