

Rabindra Kumar Singh Vs. State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Apr-05-2004

Reported in : [2004(2)JCR526(Jhr)]

Judge : Amareshwar Sahay, J.

Acts : Service Law; [Constitution of India](#) - Article 226; Bihar Re-organization Act, 2000

Appeal No. : WP(S) No. 2311 of 2002

Appellant : Rabindra Kumar Singh

Respondent : State of Jharkhand and ors.

Advocate for Pet/Ap. : R. Krishna, Adv.; A. Allam, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Amareshwar Sahay, J.

1. By issuance of order dated 8.8.1998 the petitioner was put under suspension by the Government of Bihar and the departmental proceeding was ordered to be initiated against him. During the suspension period the Head Quarter of the

petitioner was fixed at Patna. Thereafter, by issue of order dated 27.12.1999 contained in Annexure-2 the Government of Bihar changed the headquarter of the petitioner from Patna to Chaibasa now falling in the State of Jharkhand.

2. It appears that again notification dated 23.6.2000 (Annexure-4) issued by the Government of Bihar, the Head Quarter of the petitioner was changed from Chaibasa to Nawada falling in the State of Bihar.

3. The petitioner states that since he was in jail custody from 12.6.2000 at Patna in connection with CBI case against him in which he was released on bail on 20.1.2001 and therefore, he could not join at Nawada pursuant to the order contained in notification dated 23.6.2000. The petitioner further states that he had no knowledge about the issuance of order dated 23.6.2000 changing his headquarter from Chaibasa to Nawada and therefore, he joined at Chaibasa on 4.4.2001 after he was released on bail,

4. The grievance of the petitioner is that since 8.8.1998 he is not being paid the subsistence allowance and therefore, he made several representations for payment of the same but the Government of Jharkhand by issue of Annexure-5 dated 6.3.2002 has refused to pay his subsistence allowance. This very order as contained in Annexure-5 is under challenge in this writ petition.

5. The learned counsel for the petitioner submits that since the petitioner, after being released on bail, joined at Chaibasa on 4.4.2001 and thereafter because of fact that on 27.8.2001 the Headquarter of the petitioner was fixed at Ranchi, he is entitled to be paid his subsistence allowance by the Government of Jharkhand.

6. Having heard the parties, it appears that the order dated 27.8.2001 contained in Annexure-3 issued by the Government of Bihar changing the headquarter of the petitioner from Nawada to Ranchi has been passed after bifurcation of the State of Jharkhand i.e., after coming into force of Bihar Reorganization Act, 2000 and therefore, the said order was without jurisdiction.

7. Since the Government of Bihar by issue of Annexure-4 dated 23.6.2000 i.e., before bifurcation of the State of Jharkhand had fixed the head quarter of the

petitioner at Nawada falling in the State of Bihar, and therefore, joining of the petitioner at Chaibasa on 4.4.2001 cannot be said to be valid in law and therefore, only on the ground that the petitioner joined at Chaibasa on 4.4.2001 he cannot be said to be entitled to be paid subsistence allowance by the Government of Jharkhand. Therefore, in my opinion issue of Annexure-5 by the Government of Jharkhand refusing to pay his subsistence allowance to the petitioner on the said very ground cannot be said to be illegal in any manner.

8. Accordingly, this writ petition has got no merit and it is dismissed. However, the petitioner, if so advised, may represent the State of Bihar in connection with his grievance for non- payment of the subsistence allowance which he is legally entitled to be paid. If such representation is filed by the petitioner before the Government of Bihar there is no. doubt in my mind that the petitioner shall be paid his subsistence allowance by the Government of Bihar, if the same has not been paid.

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