

Ramji Singh Vs. State of Bihar and ors.

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Court : Jharkhand

Decided On : Mar-26-2004

Reported in : [2004(2)JCR544(Jhr)]

Judge : Amareshwar Sahay, J.

Acts : Service Law; [Constitution of India](#) - Article 226

Appeal No. : CWJC No. 9439 of 1999 (P)

Appellant : Ramji Singh

Respondent : State of Bihar and ors.

Advocate for Def. : M.K. Laik, SC-I

Advocate for Pet/Ap. : Sameer Saurav, Adv.

Judgement :

ORDER

Amareshwar Sahay, J.

1. The prayer of the petitioner in this writ application is for quashing the order as contained in Annexure-20 dated 20.5.1999, whereby the petitioner was awarded punishment of censure and was further ordered that he would not get in anything except the subsistence allowance during which he was under suspension. Further

prayer is for direction to the respondents to pay full salary for the period of suspension and also to pay the subsistence allowance to the petitioner from 5.8.1997 to May 1998.

2. The case of the petitioner is that he was allowed the continuity of service for the purpose of counting of his pension. It has been specifically stated that before awarding of punishment the petitioner was neither supplied with the copy of the enquiry report nor was given any notice to show cause. This fact has not been disputed by the respondents in their counter affidavit rather the case of the respondents is that the same was not required to be supplied to the petitioner in the facts and circumstances of the case.

3. However, the grievance of the petitioner with regard to the payment of subsistence allowance from 5.8.1997 to May, 1998 has already been redressed as it appears from paragraph-8 of the counter affidavit.

4. In view of the decision in the case of Mahabir Prasad v. State of Bihar, reported in 1988 PLJR 82, wherein relying on the decision in the case of M. Gopalkrishna Naidu v. The State of M.P., reported in AIR 1968 SC 240, the Division Bench while considering the Rule 97 of the Bihar Service Code, held that the petitioner was entitled to have an opportunity to show cause and since no notice to show cause was given to the petitioner and therefore, the order for non-payment of salary for the suspension period was held to be bad.

5. The present case is also on the similar fact and therefore, relying on the decision in the case of M. Gopalkrishna Naidu (supra) I hold that-so far as the order holding that the petitioner would not be entitled to anything except the subsistence allowance for the period during which he was under suspension cannot be sustained. Accordingly this application is partly allowed and so far as that part of the order, whereby the petitioner has been deprived from the payment of salary for the suspension period is hereby quashed and it is held that the petitioner is entitled to full salary for the period during which he was under suspension.

6. So far as that part of the impugned order, whereby the punishment of the censure has been awarded to the petitioner is concerned. I do not find any reason to interfere with the same. Respondents are directed to pay full salary to the petitioner for the period during which he was under suspension minus the amount which he has been received by him by way of subsistence allowance within the period of the three months from the date of receipt/ production of a copy of this order.

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