

State of Jharkhand and ors. Vs. Shiv Kumar Singh and anr.

State of Jharkhand and ors. Vs. Shiv Kumar Singh and anr.

SooperKanoon Citation : sooperkanoon.com/517083

Court : Jharkhand

Decided On : Jul-17-2007

Reported in : 2007(2)BLJR2916; [2007(114)FLR1153]; [2007(4)JCR54(Jhr)]

Judge : M.Y. Eqbal and; D.G.R. Patnaik, JJ.

Acts : Jharkhand State Pollution Control Board Act; Water (Prevention and Control of Pollution) Act, 1974 - Sections 12; Bihar Service Code

Appeal No. : L.P.A. No. 66 of 2007

Appellant : State of Jharkhand and ors.

Respondent : Shiv Kumar Singh and anr.

Advocate for Def. : Anil Kr. Sinha,; S. Arun,; S.K. Dewedi and;

Advocate for Pet/Ap. : S.B. Gadodia, Adv. General

Disposition : Appeal dismissed

Judgement :

M.Y. Eqbal, J.

1. This appeal under Clause 10 of the Letters Patent is directed against the judgment dated 19.2.2007 passed by the learned single Judge in W.P. (S) No. 6924 of 2006 whereby and whereunder the writ petition filed by the petitioner-

respondent No. 1 has been allowed.

2. The petitioner-respondent No. 1 filed the aforementioned writ petition for quashing the order as contained in letter No. 4904 dated 9.10.2006 issued under the signature of Secretary, Department of Forest and Environment, Govt. of Jharkhand by which the Government has stayed the operation of the decision taken by the Jharkhand State Pollution Control Board (herein after referred to as the 'the Act') in its meeting dated 28.7.2006 by which the Board raised the age of superannuation of its officers and employees from 58 years to 60 years in pursuance of the resolution dated 26th October, 2004 of the State Government.

3. The facts of the case lie in a narrow compass:

The Govt. of Jharkhand decided to increase the age of superannuation of the employees from 58 years to 60 years and to that effect, a memo dated 26th October, 2004 was issued by the Personal Administrative Reforms and Rajbhasa Department, Govt. of Jharkhand. The respondent - Jharkhand State Pollution Control Board held its meeting on 28.7.2006 and a decision was taken to increase the age of superannuation of the officers and employees of the Board from 58 years to 60 years in pursuance of the resolution dated 26th October, 2004 issued by the Govt. of Jharkhand. The decision of the respondent - Jharkhand State Pollution Control Board was implemented vide notification dated 28.8.2006. However, the decision of the Board was not approved by the State Government for enhancing the age of superannuation of the employees of the Board from 58 years to 60 years. Consequently vide letter dated 9.10.2006 issued under the signature of the Secretary, Department of Forest and Environment, Govt. of Jharkhand, the said decision of the Board was stayed. The writ petitioner, who is the employee of the Board, challenged the said decision of the Govt. of Jharkhand by filing the aforementioned writ petition. The learned Single Judge after considering the facts of the case and after hearing the parties held that the Govt. of Jharkhand has no authority to stay the operation of the Board's resolution and the same is being illegally done by the State Government. Accordingly, the order of the State Government was quashed and the writ petition was allowed. Hence, this appeal by the State of Jharkhand.

4. Mr. S.B. Gadodia, learned Advocate General, submitted that the decision taken by the Jharkhand State Pollution Control Board in its meeting dated 28.7.2006 enhancing the age of superannuation of its officers and employees is illegal and wholly without jurisdiction. Learned Advocate General submitted that as per Section 12 of the Water (Prevention and Control of Pollution) Act, 1974, the terms and conditions of services of the officers and employees of the Board shall be determined only by a regulation and such regulation shall take effect only when it is approved by the State Government. Learned Advocate General submitted that the learned Single Judge has not appreciated the stand taken by the appellant-State of Jharkhand.

5. Mr. Anil Kumar Sinha, learned Senior Counsel, on the other hand, submitted that before the division of the State of Bihar, the Bihar Pollution Control Board was created in the year 1984. After the creation of the State of Jharkhand, the Jharkhand State Pollution Control Board was established in 2001. By virtue of two notifications in the years 1986 and 2006, it was decided that the service conditions of the employees of the Pollution Control Board shall be governed by the service conditions applicable to the State Government employees as contained in Bihar Service Code. Learned Counsel submitted that no rule or regulation has been framed governing the service conditions of the employees of the Board. Learned Counsel further submitted that the age of superannuation of the officers and employees of the Bihar State Pollution Control Board has also been enhanced from 58 years to 60 years.

6. It is not in dispute that by resolution contained in Memo No. 5826 dated 26th October, 2004 of the Department of Personnel Administrative Reforms and Rajbhasa, the Govt. of Jharkhand the age of retirement of the State Government employees has been increased from 58 years to 60 years. Copies of the said resolution were forwarded to all the concerned authorities including the Universities, Boards, Corporations, etc. Pursuant to the said resolution, the Jharkhand State Pollution Control Board held its meeting on 28.7.2006 and took a decision to raise the age of retirement of the officers and employees of the Board from 58 years to 60 years. The decision of the Board was implemented vide notification dated 28.8.2006. It has also not been disputed by the respondent-State

that before the division of the united State of Bihar, the erstwhile Bihar State Pollution Control Board in its 26th meeting resolved that the service rules of the Bihar State employees will be applicable to the officers and employees of the Bihar State Pollution Control Board and an office order to that effect was issued on 11.8.1986. Admittedly, no rule or regulation has been framed by the State of Jharkhand in exercise of its power conferred by the Water (Prevention and Control of Pollution) Act, 1974 till date. Since the date of creation of Bihar State Pollution Control Board and also the Jharkhand State Pollution Control Board, the conditions of service of the employees are also governed by the Bihar Service Code which is applicable to the State Government employees. Besides the above, after the age of retirement of the Government employees was enhanced from 58 years to 60 years by notification dated 26th October, 2004, other establishments like Universities, Corporations, etc have issued notifications enhancing the age of superannuation of their employees from 58 years to 60 years. Like other Corporations and Board, the Jharkhand State Pollution Control Board also took a decision to enhance the age of superannuation of its employees from 58 years to 60 years. In our view, therefore, in absence of any rule or regulation framed by the State of Jharkhand, the decision taken by the Board shall be given effect to with all force. The concerned authority of the State Government has committed serious illegality in staying the decision taken by the Board for enhancing the age of retirement of its employees. Besides, the above, the reasons assigned by the learned Single Judge in holding that the action of the respondent-State was arbitrary and without jurisdiction is fully justified.

7. For the reasons aforesaid, we do not find any error in the impugned judgment passed by the learned Single Judge which is, accordingly, affirmed. As a result, we do not find any merit in this appeal which is, accordingly, dismissed.