

State of Jharkhand and ors. Vs. Amarendra Kumar and ors.

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Court : Jharkhand

Decided On : Jul-17-2007

Reported in : [2007(4)JCR58(Jhr)]

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

Appellant : State of Jharkhand and ors.

Respondent : Amarendra Kumar and ors.

Judgement :

1. Since common questions of law and facts are involved in these appeals, (hey have been heard together and are disposed of with the consent of the learned Counsel appearing for the parties, at the admission stage.

2. The writ petitioners (respondents herein) moved this Court against the order contained in the letter, by which their services were terminated without assigning any reasons and without following principle of natural justice, although, the writ petitioners were appointed between the years 1990-92 and have been continuing in services. Learned Single Judge after considering the entire facts of the case, allowed the writ petitions holding that the order of termination was totally violative of principle of natural justice and also arbitrary. For better appreciation, paragraphs-5 and 6 of the impugned judgment, passed by the learned Single Judge, is quoted herein-below.

5. Having considered the submissions made by learned Counsel for the parties, the facts and materials available on record and also the various decisions referred to and relied upon by the parties, I find much substance in the grievances of the petitioners that they have been made victim of arbitrariness. There is no denial that there was an advertisement for the posts, that the selection was made by a Selection Committee on the basis of written test and interview and appointment letters were issued to the petitioners on that basis between 1989-92. Further, it is an admitted position that the services of the petitioners were confirmed on different dates and the petitioners have been in long continuous service without any complain against them. Somehow show cause notices were issued to the petitioners in the year 1998 to which the petitioners had replied. According to the petitioners, the authorities found their replies satisfactory and closed the matter. However, according to the respondents, the impugned orders have been issued on the basis of the said show cause. It has been submitted on behalf of the respondents that by issuing the said show cause notices, opportunity was given to the petitioners, by the State of Bihar long back in the year 1998 and the State of Jharkhand was not required to issue a fresh notice asking for any explanation before issuing the impugned orders dated 5.5.06 & 8.5.06. The question as to whether the matter was closed in the year 1998 on the basis of the explanation furnished by the petitioners or it was in the process and the impugned orders have been issued on that basis is a factual controversy and cannot be adjudicated upon in writ jurisdiction. However, it is unequivocally clear from the impugned orders that there is absolutely no whisper about the petitioners' explanation and consideration thereof in the impugned orders. On reading of the impugned orders, it is not clear as to what is the illegality/infirmity for holding the petitioners' appointments illegal and in violation of Articles 14 & 16 of the Constitution. There is no specific mention of violation of any particular provision of law, rule or the policy decision. It is also not clear as to which authority examined the individual case of the petitioners and the replies and representations made by them. The impugned orders are thus totally dumb, cryptic and non-speaking and the same do not comply with the requirement of the principle of natural justice and do not stand to the test of reasonableness and fair play. It is well settled that any order affecting the citizens' valuable right or visiting with penal or civil consequence, must

conform-to the requirement of principle of natural justice, rule of fair play and reasonableness. The impugned orders admittedly are punitive and visit the petitioners with civil consequences, but the same do not conform to the requirement of the principle of natural justice. The impugned orders are violative of the Articles 14 & 16 of the Constitution of India and are not at all sustainable.

6. For the reasons aforesaid, these writ petitions are allowed. The impugned orders dated 5.5.06 & 8.5.06 terminating the services of the petitioners are, hereby, quashed. No benefit otherwise admissible/payable shall be denied to the petitioners on the ground of the said illegal termination and the petitioners are held to be entitled to get all consequential benefits without any break in the service.

3. We have also perused the relevant documents annexed with the writ petitions and also with the memo of appeals. We have no doubt in holding that the learned Single Judge has rightly held the order of termination being illegal and violative of principle of natural justice. The order needs no interference by this Court. All these appeals are accordingly dismissed.

4. However, before parting with the order, we observe that the impugned judgment will not come in the way of the appellants to proceed in accordance with the law if they so desire and if there are sufficient reasons to proceed. At the same time, we are constrained to observe that some of the employees have been allocated Bihar Cadre and some of them have been allocated Jharkhand Cadre and there shall be anomalous situation when action is taken only against the employees who have been placed in Jharkhand Cadre. The appellants shall also take into consideration this aspect of the matter in the event they desire to proceed in accordance with the law. Needless to say that in the event, appellants take any action against the respondents, they shall have a right to approach this Court against the order.