

Arbind Kumar Sinha Vs. State of Bihar (Now Jharkhand) and ors.

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Court : Jharkhand

Decided On : Aug-02-2006

Reported in : [2006(4)JCR285(Jhr)]

Judge : Amareshwar Sahay, J.

Acts : Bihar Re-organisation Act, 2000 - Sections 74

Appeal No. : CWJC No. 9803 of 1999 (P)

Appellant : Arbind Kumar Sinha

Respondent : State of Bihar (Now Jharkhand) and ors.

Advocate for Def. : R.R. Mishra, GP-II and; S.P. Roy, Adv.

Advocate for Pet/Ap. : Delip Jerath and; S.N. Prasad, Advs.

Judgement :

Amareshwar Sahay, J.

1. This writ application can be disposed of on a short point, which has been raised by the petitioner challenging the legality of Annexure-31, i.e. the order dated 31.7.2002 passed by the Deputy Secretary to the Government, Water Resource Department, Bihar. It is submitted that from said order dated 31.7.2002 it appears that when the impugned order (Annexure-31) was passed by the Government of

Bihar, Water Resource Department, the petitioner was posted at Chaibasa within the territory of the State of Jharkhand and, therefore, in view of the decision of the Division Bench of this Court in the case of 'State of Bihar v. Arvind Vijay Billing and Anr. reported in 2002 (1) JLJR 697 : 2002 (1) JCR 401 (Jhr), the State of Bihar could not have passed the impugned order dated 31.7.2002 and, therefore, the same is apparently without jurisdiction. The Division Bench of this Court in the aforesaid case has held as follows (JCR page 406) :-

12. In such a situation and in such a background, where the State is carved out of an existing State, the co-operation between the two States becomes meaningful. If, therefore, the State of Bihar has, in its possession, any material against a Government servant who, by virtue of Section 74 of the Act, is now in the service of the State of Jharkhand and if the State of Bihar thinks that such material warrants initiation of an action against such a person, it is open to the State of Bihar to forward such material to the State of Jharkhand for such action as it considered appropriate by the State of Jharkhand. Let it be very clearly understood that only role of the erstwhile State in such a situation is merely to pass on the information or the relevant material to the State of Jharkhand and leaving the rest for the State of Jharkhand to do. Similar would be the case for the State of Jharkhand if an employee is in a place in Bihar and if the State of Jharkhand has any material in its possession which may be required to be forwarded to the State of Bihar for appropriate action against such an employee.

2. In this view of the matter, relying on the decision of the Division Bench of the Court in the case of State of Bihar v. Arvind Vijay Billing and Anr. (supra), the order as contained in Annexure-31 to the writ application passed on 31.7.2002 dismissing the petitioner from service is hereby quashed and the matter is being remitted to the Secretary to the Government, Water Resource Department, Government of Jharkhand, to take a fresh decision in the matter in accordance with law.

3. The State of Bihar at its own or on the request of the State of Jharkhand may forward such materials, which are in its possession against the petitioner for taking action against him and the State of Jharkhand on receipt of such materials from

the State of Bihar may pass an appropriate order in accordance with law within a period of six months from the date of receipt/production of a copy of this order.

4. With these observations and directions, this writ application is disposed of.

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