

Ramayan Prasad Singh Vs. the State of Bihar and ors.

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Court : Jharkhand

Decided On : Sep-10-2008

Reported in : [2008(4)JCR438(Jhr)]

Judge : D.G.R. Patnaik, J.

Appellant : Ramayan Prasad Singh

Respondent : The State of Bihar and ors.

Judgement :

D.G.R. Patnaik, J.

1. Petitioner in this writ application has prayed for a direction commanding upon the respondent Nos. 1 and 2 in particular, to immediately and forthwith grant all pensionary benefits including the pension to the petitioner for his services rendered in the office of Deputy Commissioner, Dhanbad on and from 20.02.1961 till 31.05.1981 and also to direct the respondent Nos. 1 and 2 to pay the gratuity amount to the petitioner in respect of the services rendered by him during the period under the State of Bihar, now Jharkhand.

2. The petitioner's case in brief is that he was appointed as a Lower Division Clerk and posted in the office of Deputy Commissioner, Dhanbad on 20.02.1961. In due course, he was granted promotion to the post of Upper Division Clerk with corresponding scale of pay on 05.07.1978. After implementation of the

recommendation of the 4th Pay Revision Committee, his scale was enhanced on and from 01.04.1981. Later, on being selected to the post of Revenue Inspector under the B.C.C.L., he was offered the post of Revenue Inspector by the B.C.C.L. on 10.02.1981. Consequently, he relinquished his job in the Dhanbad Collectorate and was relieved from duty on 31.05.1981 and on 01.06.1981 he joined the B.C.C.L. from where he superannuated on 31.12.2000.

On his retirement, he filed an application before the Deputy Commissioner, Dhanbad for grant of pension and gratuity for the services rendered by him in the Dhanbad Collectorate from 20.02.1961 to 31.05.1981. However, by letter dated 16.03.2004, he was informed by the respondent No. 7 that no pension and gratuity is admissible to him for the aforesaid period on the ground that as per the guidelines issued by the Member, Board of Revenue, Finance Department of the Government of Jharkhand, since the petitioner had voluntarily relinquished his services under the State Government and such transfer being not in public interest, the Government will not accept any liability to pay any retirement benefits or carry forward leave for the period of service rendered under the Government.

The further contention of the petitioner is that on being offered the post of Revenue Inspector under the B.C.C.L., he had submitted his application to his controlling authority namely the Deputy Commissioner, Dhanbad, for relieving him from his post by informing about the offer given to him by the B.C.C.L. and he was thereafter, relieved from his post in the Collectorate and was also granted lien on his post by letter dated 21.03.1983. The grievance of the petitioner is that though he was paid the pensionary benefits by the B.C.C.L. on his retirement, but the period of more than 20 years, which he had served under the State Government, was not added to the total length of service and the pensionary benefits to which the petitioner was entitled for the services rendered under the State Government, has been illegally denied to him.

3. A counter affidavit has been filed on behalf of the respondent No. 7. While admitting the fact that the petitioner was employed as a Clerk in the District Collectorate, Dhanbad from 20.02.1961 to 31.05.1981, stand taken by the respondent is that in view of the Finance Department's letter No. 5190-F dated

30.04.1976 (Annexure-E), since the petitioner had himself elected for his appointment in an autonomous body on the basis of his own application, his transfer cannot be deemed to be in public interest and therefore, the Government will not accept any liability to pay any retiral benefits or carry forward leave for the period of service rendered under the Government.

4. Refuting the above stand of the respondents, learned Counsel for the petitioner explains that the objections raised by the respondents against the petitioner's claim is misconceived in view of the fact that the issue as to whether the Government employee who had served under the Government for sometime and has joined any autonomous body of the Central Government or the State Government shall get the benefit of pension and retiral benefits, has been decided by the Government of Bihar in the Department of Finance and duly notified to all the concerned departments vide notification dated 19.03.1990 (Annexure-4).

5. From the facts admitted by the respondents it transpires that the petitioner had served under the State Government of Bihar in the office of Deputy Collector, Dhanbad from 20.02.1961 to 31.05.1981. The petitioner had tendered his resignation on the ground that he was offered employment under the B.C.C.L., which is an autonomous public body under the Central Government in which pension scheme known as 'Coal Mines Pension Scheme' has been adopted for the benefit of its employees. His resignation was accepted with the approval of his appointing authority and he was relieved from his service on 31.05.1981. On the next date i.e. on 01.06.1981 he had joined his post in the B.C.C.L.

6. Even though the petitioner had voluntarily opted out of his appointment under the State Government to take up another appointment, the petitioner cannot be denied the right to pension and corresponding retiral benefits which he had earned by rendering his services under the State of Bihar for more than 20 years. He is certainly entitled for claiming the pensionary benefits from the respondent State of Bihar for the period which he had served. Such claim cannot be denied to him merely on the ground that he had elected for his appointment in an autonomous body, on his own application and that such transfer, cannot be deemed to be in the public interest. It is to be noticed that even though the petitioner had submitted his

resignation informing his controlling authority that he was offered employment in the B.C.C.I., the controlling authority had accepted the resignation after giving his approval to enable the petitioner to join the B.C.C.L.

7. A similar issue came for consideration before this Court in the Case of Rai Jogendra Bahadur Sinha (C.W.J.C. No. 1518 of 1992(R)) in which it was held on the facts of the case that the period of the applicant's services under the State Government is liable to be calculated towards his pensionary benefits. The ratio decided in the above case applies equally to the case of the petitioner in the present case.

8. For the reasons stated above, I direct the respondent State to pay the pensionary benefits including gratuity, to the petitioner for the period of service he had rendered under the State of Bihar. Such payment may be made payable by the State Government by acknowledging its liability to the B.C.C.L. so that the pension amount and retrial benefits may be computed on the basis of adding the past services rendered by the petitioner under the State Government to his services under the B.C.C.L. till the date of his retirement.

9. With the above observations, this writ application is disposed of.