

State of Jharkhand and ors. Vs. Mahendra Kumar Sinha

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Court : Jharkhand

Decided On : Jul-29-2003

Reported in : [2004(1)JCR268(Jhr)]

Judge : Gurusharan Sharma and; Vikramaditya Prasad, JJ.

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

Appeal No. : L.P.A. No. 347 of 2003

Appellant : State of Jharkhand and ors.

Respondent : Mahendra Kumar Sinha

Advocate for Def. : Aparesh Kumar Singh, Adv.

Advocate for Pet/Ap. : Md. Shamin Akhtar, SC II

Disposition : Appeal dismissed

Judgement :

ORDER

1. Heard the parties on LA. No. 1047/2003 at flag 'L'. According to the Stamp Report dated 11.3.2003, limitation expired on 24.2.2003, whereas the memorandum of appeal was presented before this Court on 10.3.2003. On the next day, i.e., on 11.3.2003, the Stamp Report was made and certain defects were pointed out, which could be properly removed on 13.6.2003 and on the same day,

the appeal was filed. We find that sufficient explanation has been furnished for the said delay. Unfortunately about three months' delay was caused at the instance of the counsel for the appellants in removing those defects properly. Hence, the delay in filing the appeal is condoned.

2. Heard both parties on the merit of the appeal. The sole respondent claimed to have been appointed as Panchayat Sewak in the year 1981 on provisional basis, subject of the final approval after completion of necessary training. He further claimed that he was sent for such training in Panchayat Training Institute and after completing the same on 31.12.1981, he was directed to report in the office of the District Panchayat Officer, Dumka, for posting. Though the respondent claimed to have reported in the said office, but miserably failed to substantiate the same. After completing the training in December, 1981, neither the respondent reported in the office of the District Panchayat Officer, nor was posted anywhere and was traceless. In the year 1987, he was appointed afresh as Panchayat Sewak in the newly created district of Deoghar on compassionate ground. However, he was allowed the benefit of necessary training, which he had already completed in the year 1981 and was directly posted in Sarba Block and thereafter, from there he was transferred to Madhupur Block, where at present he is working as Panchayat Sewak.

3. The respondent filed CWJC No. 2266 of 2001 in this Court, challenging his position in the seniority list of Panchayat Sewaks and claimed his seniority from the year 1981, when he was appointed at Dumka.

4. The learned Single Judge, by the impugned order dated 20.1.2003, allowed the writ petition in part and directed the respondents to re-fix his seniority, giving benefit of the entire length of service and in this regard, a direction was given to him to approach the Director, Panchayat Raj, Government of Jharkhand, Ranchi. The Director was directed to pass appropriate orders within a period of four months from the date of receipt/ production of a copy of the order, accompanied by a representation.

5. It is true that the respondent was appointed as Panchayat Sewak in the year 1981 on adhoc basis and he was also given training as required for the said post,

but thereafter he did not report in the office of the District Panchayat Officer, Dumka. He was, therefore, not posted as Panchayat Sewak. After lapse of about 6 years in the year 1987, the respondent again applied at Deogher for his appointment as Panchayat Sewak on compassionate ground and was appointed accordingly sometime in December, 1987 and thereafter he joined the said post and is working as such. Since the respondent's appointment in the year 1987 was a fresh appointment on the post of Panchayat Sewak and he was only given advantage of necessary training, which he had already obtained in the year 1981 and was directed to join directly, in our opinion he is not entitled to be counted the period from 1981 to 1987 for the purpose of reckoning his seniority as Panchayat Sewak.

6. In the aforesaid circumstance, we set aside the impugned order passed by the learned Single Judge and allow the appeal.

Consequently, the writ petition filed by the respondent also stands dismissed.

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