

Ranjit Kumar Sinha Vs. Drinking Water and Sanitation

Ranjit Kumar Sinha Vs. Drinking Water and Sanitation

SooperKanoon Citation : sooperkanoon.com/69303

Court : Jharkhand

Decided On : Mar-03-2016

Appellant : Ranjit Kumar Sinha

Respondent : Drinking Water and Sanitation

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 5748 of 2014 with W.P.(S) No. 285 of 2014 --- Ranjit Kumar Sinha --- --- --- Petitioner in both cases Versus 1. The State of Jharkhand 2. The Secretary, Drinking Water and Sanitation Department, Govt. of Jharkhand 3. The Engineer -in - Chief, Drinking Water and Sanitation Department, Govt. of Jharkhand 4. The Superintending Engineer, Drinking Water and Sanitation Department, Govt. of Jharkhand, Drinking Water & Sanitation Circle, Jamshedpur 5. The Executive Engineer, Drinking Water and Sanitation Department, Govt. of Jharkhand, Drinking Water & Sanitation Division, Jamshedpur 6. The District Accounts Officer, Jamshedpur 7. The Accountant General (A&E), Jharkhand--- --- --- Respondents --- CORAM:The Honble Mr. Justice Aparesh Kumar Singh For the Petitioner: Mr. Prabhat Kr. Sinha, Advocate For the Resp - State: Mr. Jai Prakash, A.A.G., Ms. Shivani Verma, JC to A.A.G in WPS No. 285/2014, Mr. Shadab bin Haque, JC to GP-I in WPS No. 5748/2014 For the Resp No. 7: Mrs. Richa Sanchita and Mr. Anup Kr. Agrawal, Advocates --- 05/ 03.03.2016 Heard counsel for the parties.

2. WPS No. 285/2014 relates to the prayer for absorption of the services of the petitioner in Drinking Water and Sanitation Department, claiming that he has been

on deputation since 1999 under the State Government from Bihar State Sugar Corporation Limited where he was originally appointed on 06.06.1979. WPS No. 5748/2014 is in relation to the claim for post retiral benefits, as the petitioner has superannuated on 31.03.2014 after filing of other writ petition.

3. Petitioner has contended that on the consent taken from the petitioner on the basis of a proposal of Public Health Engineering Department contained in letter no. 1246 dated 27.08.1998, services of the petitioner and others were sent on deputation to Public Health Engineering Department, Bihar through letter no. 36 dated 12.01.1999 on the post of Chemist in the pay scale of Rs. 1400-2600. Since then, petitioner has continued under the respondent department till his superannuation. He refers to the recommendation of the Respondent Superintending Engineer, Drinking Water and Sanitation Department, Govt. of Jharkhand, Drinking Water & Sanitation 2. Circle, Jamshedpur for his absorption bearing no. 878 dated 18.06.2002 which has not been acted upon. He also refers to a decision rendered by the Patna High Court in CWJC No. 8050/2003 (Raj Shekhar Vs. State of Bihar & Ors.) dated 01.03.2005, whereunder in a case of repatriation of employee of the same Bihar State Sugar Corporation Limited on deputation in Public Health Engineering Department (Now Drinking Water and Sanitation Department), Bihar arising out of the same order of deputation, learned Single Judge was pleased to quash the order of repatriation and directed for consideration of the case of the said petitioner for absorption against the vacant post of chemist or any equivalent post. Services of the said petitioner Raj Shekhar has thereafter been absorbed by office order no. 206 dated 11.02.2012 issued by the Public Health Engineering Department, Bihar (Annexure-10). Petitioner has also represented before the respondent department vide Annexure-11 for absorption before approaching this Court as it has not yet been redressed.

3. In the first writ petition, respondent had filed the counter affidavit where they have referred to a reasoned order passed in the case of Niranjana Krishna Verma pursuant to the direction passed in his case in WPS No. 6704/2013 (Niranjana Krishna Verma vs. State of Jharkhand & others) i.e. memo no. 2199 dated 08.06.2015 whereunder, they have held that the said person being an employee of the Corporation, cannot be entitled for post retiral benefits. However, his case

being similar to the case of another person in respect of whom Special Leave to Appeal is pending, would be considered pursuant to such decision rendered in pending SLP. On the specific query made by the Court on an earlier occasion, on a direction contained in interim order dated 08.01.2016, respondents have not been able to come out with any clear statement as to any such matter said to be pending before the Apex Court as Special Leave Petition, as reflected in the reasoned order at Annexure-A dated 08.06.2015.

4. Learned counsel for the petitioner insisted that the case of the petitioner should be decided on independent consideration as there are no valid reasons for 3. refusing consideration of his case for absorption on the pretext of reasoned order passed in the case of Niranjana Krishna Verma. As a matter of fact, in the petitioner's case, pension has been sanctioned to be paid out of the State Exchequer through the office of Accountant General, while contrary stand has been taken in the case of Niranjana Kumar Verma that his pensionary dues are payable by the Corporation. Learned counsel for the petitioner also submits by referring to the order of deputation that there is specific clause that service of the petitioner would be pensionable.

5. Learned A.A.G. appearing for the State submits that the writ petition may be disposed of at this stage without getting into its merit as informed decision in the first place is required to be taken on independent consideration of the case of the petitioner without being influenced by any order passed in the case of one or other person. Learned counsel for the State submits that GPF and Leave Encashment amount has already been sanctioned and paid to the petitioner.

6. Having considered all these aspects, writ petition is disposed of with a direction to the competent authority under the respondent Drinking Water and Sanitation Department, Govt. of Jharkhand / Respondent No. 2 - Secretary, Drinking Water and Sanitation Department, Govt. of Jharkhand for taking an informed decision on the question of absorption of the petitioner in Government service. Petitioner is at liberty to make a representation relying upon all relevant material facts, documents and judgment rendered in the case of Raj Shekhar (Supra). Let such consideration be made within a reasonable time preferably within a period of twelve weeks from

the date of receipt of a copy of this order.

7. Needless to say, dependent upon such decision, admissible post retiral dues be released in favour of the petitioner within a reasonable time, preferably four weeks thereafter.

8. Learned counsel for the petitioner has submitted that in spite of issuance of pension payment order, for the last two months, no objection certificate is not being issued by Drawing and Disbursing Authority under whom petitioner had been 4. working.

9. Needless to say, competent authority would take into account these facts also while taking the decision.

10. Writ petitions stand disposed of accordingly. (Aparesh Kumar Singh, J)
Ranjeet/

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com