

Birendra Pratap Dev Vs. State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Sep-06-2016

Appellant : Birendra Pratap Dev

Respondent : State of Jharkhand and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 3190 of 2010
----- Birendra Pratap Dev son of Awadh Kishore Dev, Resident of Village Parucha, P.O Banka, P.S. Meral, District-Garhwa. ... Petitioner Versus 1.State of Jharkhand. 2.Member Advisory Committee through G. Krishnan, Department of Cooperative, Jharkhand, Ranchi. 3.Secretary, Department of Cooperative, Jharkhand, Ranchi 4.Deputy Commissioner-Cum-Parismapak, Central Cooperative Bank Ltd. 5.Managing Director, Daltonganj Central Cooperative Bank Ltd., Palamu. 6.Joint Secretary, Cooperative Bank Department, Jharkhand, Ranchi. Respondents ----- with W.P. (S) No. 3742 of 2010 Ram Krishna Choubey, son of Late Sumer Choubey, Resident of Village Pachekala, P.O Bhojpue, P.S. Nagarutari, District: Garhwa. Versus 1.State of Jharkhand. 2.Member Advisory Committee through G. Krishnan, Department of Cooperative, Jharkhand, Office at Project Bhawan, P.O & P.S. Dhurwa, Ranchi. 3.Secretary, Department of Cooperative, Jharkhand, Office at Project Bhawan, P.O & P.S. Dhurwa, Ranchi. 4.Deputy Commissioner-Cum-Parismapak, Central Cooperative Bank Ltd. Office at Daltonganj, P.O & P.S. Daltonganj, Palamu. 5.Managing Director, Daltonganj Central Cooperative Bank Ltd., Palamu, Office at Daltonganj, P.O & P.S.

Daltonganj, Palamu. 6. Joint Secretary, Cooperative Bank Department, Jharkhand, Office at Project Bhawan, P.O & P.S. Dhurwa, Ranchi. Respondents CORAM: HONBLE MR. JUSTICE PRAMATH PATNAIK ----- For the Petitioners : Mr. (Dr.) S.N. Pathak, Sr Advocate. For the Respondents : Mr. Rounak Sahay, J.C to S.C (Mines) ----- C.A.V. on 14.06.2016 Pronounced on 06/09/2016 Per Pramath Patnaik, J.: In the accompanied writ applications, the petitioners have inter alia prayed for quashing order dated 9/10.02.2009, whereby the respondents rejected the claim of the petitioner for adjustment of their services in any of the Co-operative Bank and for direction 2 upon the respondents to consider the case of the petitioners for adjustment of their services in any of the Co-operative Bank in the State of Jharkhand.

2. Bereft of unnecessary details, the facts as delineated in the writ application, is that the petitioner-Birendra Pratap Dev was initially appointed as Assistant in Central Cooperative Bank, Daltonganj on 01.11.1984 whereas petitioner-Ram Krishna Choubey was appointed as a Peon in Central Cooperative Bank, Daltonganj on 01.09.1979. While continuing as such a show cause was issued to the petitioners for wrong delivery of money to customers and manipulation of Bank amount. Pursuant thereto, the petitioners submitted their show cause. However, departmental proceeding was initiated against them. The departmental proceeding ended with a direction to petitioner- Birendra Pratap Dev and Branch Manager to deposit the manipulated amount of Rs. 76,135/- in equal installments whereas amount of Rs. 54090/- was directed to be recovered from the salary of the petitioner-Ram Krishna Choubey and further imposition of punishment of two annual increments with cumulative effect were also imposed upon the petitioners. In the meantime, the Central Cooperative Bank was liquidated and a report was prepared by the Secretary, Cooperative Department whereby it was ordered to adjust only 137 employees and rest employees against whom departmental proceeding was pending were not adjusted and their adjustment were ordered to be taken up after outcome of the proceeding. The departmental proceeding was concluded against all and out of eleven persons only two 3 persons were adjusted. Thereafter, the Deputy Commissioner ordered for adjustment of all persons, but, when the petitioners were not adjusted, they moved the department for their adjustment. But the department headed by the Member Committee rejected their

claim vide order dated 09/10.02.2009 on the ground that though the departmental proceeding has been concluded, the petitioners have been awarded punishment, as such their case was not fit for adjustment.

3. Learned senior counsel for the petitioners submitted that the two persons, namely Vinay Kumar Singh and Bachhu Paswan against whom criminal case is pending have been adjusted and the petitioners who stand on better footing have been denied the benefit of adjustment. It has further been submitted that order dated 09/10.02.2009 is contrary to opinion/order of the Secretary, at Annexure 9 to W.P. (S) No. 3742 of 2010, who has mentioned that the petitioners have been exonerated from the charges.

4. Controverting the averments made in the writ application, the respondents have filed counter affidavit. Learned counsel for the respondents submitted that on the basis of charges levelled against the petitioners, departmental proceeding was initiated against them wherein recovery of amount in question from the salary of the petitioners and further two increments of the petitioners were directed to be withheld with cumulative effect. Against the petitioner-Ram Krishna Choubey proceeding was ended with order of recovery from his salary and warning. Learned counsel further submitted that the learned advisor to His 4 Excellency Governor has rightly rejected the claim of the petitioners on the ground that though the departmental proceeding pending against the petitioners have come to an end but the same had not resulted in the exoneration of the petitioners. It has further been submitted that no decision was taken to adjust the services of all the employees of Daltonganj Central Co-operative Bank in other District rather the decision was taken to regularize only those 137, who were working in the bank on the date of liquidation and admittedly against the petitioners departmental proceeding was going on. It has further been submitted that out of eleven employees, against whom departmental proceeding was pending on the date of liquidation, two have ended in clean acquittal and after Cabinet approval, their services were adjusted and since the case of the petitioners do not come under the zone of clean acquittal, their cases for adjustment was rightly rejected.

5. After having heard learned counsel for the parties at length and on perusal of the record, I am of the considered view that the petitioner succeeds in making out a case for interference for the following facts and reasons: (i).For wrong delivery of money to customers and manipulation of Bank amount, charges were framed against the petitioners and departmental proceeding was initiated against them. In the meantime, on 10.04.2006, the Central Co-operative Bank was liquidated and it was ordered to adjust 137 employees excluding the petitioner against whom departmental proceeding was going on. Thereafter, the departmental 5 proceeding ended with a direction to the petitioners to deposit the amount in question and further it was ordered that two increments of the petitioners be withheld with cumulative effect. On completion of departmental proceeding, the then Deputy Commissioner, Palamu sent a letter dated 22.01.2008 for adjustment of these petitioners to other Central Cooperative Bank, to Secretary, Cooperative Department. (ii).On perusal of office note-sheet at Annexure 9 to W.P. (S) No. 3190 of 2010, it appears that Deputy Commissioner, Palamu was appointed as liquidator, on whose report two persons were adjusted on the ground that they were exonerated from the charges but the petitioners were refused to give the benefit of adjustment on the ground that though the departmental proceeding has come to an end but they have not been fully exonerated of the charges. From the face of it, the finding recorded to this effect does not appear to be justified, hence unsustainable in the eye of law. (iii).It is an admitted fact that on the date of liquidation, the petitioners were in the service of the bank and they were all along working in the said bank even after initiation of departmental proceeding and if the bank in question were not liquidated, the petitioners even after outcome of the departmental proceeding were supposed to continue in the bank. (iv).Furthermore, the Deputy Commissioner, Palamu was appointed as liquidator and on his report other persons were adjusted and when the Deputy Commissioner after considering 6 the case of the petitioners put forth the case of the petitioners for consideration for adjustment in other Central Cooperative Bank, the case of the petitioners have been rejected. Under the circumstances, the petitioners deserve the same benefit as has been extended to the employees, who have been adjusted.

6. In view of the discussions made in the foregoing paragraphs, the order dated 9/10.02.2009 is hereby quashed and set aside and the respondents are directed to consider the case of the petitioners and take a decision thereof as expeditiously as possible and preferably within a period of four months from today.

7. With the aforesaid observations and directions, the writ petitions stand disposed of. (Pramath Patnaik, J.) Alankar/-

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