

Basudeo Baraik Vs. State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Sep-22-2016

Appellant : Basudeo Baraik

Respondent : State of Jharkhand and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P (S) No.1757 of 2011 With W.P.(S) No.3048 of 2007 With W.P.(S) No.1742 of 2011 With W.P.(S) No.1743 of 2011 With W.P.(S) No.1744 of 2011 With W.P.(S) No.1754 of 2011 With W.P.(S) No.1755 of 2011 With W.P.(S) No.1808 of 2011 With W.P.(S) No.1816 of 2011 With W.P.(S) No.1820 of 2011 With W.P.(S) No.1850 of 2011 With W.P.(S) No.1905 of 2011 With W.P.(S) No.1910 of 2011 With W.P.(S) No.1925 of 2011 With W.P.(S) No.1931 of 2011 With W.P.(S) No.2004 of 2011 With' W.P.(S) No.2060 of 2011 With W.P.(S) No. 2062 of 2011 With W.P.(S) No.2188 of 2011 With W.P.(S) No.2194 of 2011 With W.P.(S) No.3754 of 2011 With W.P.(S) No.5123 of 2011 With W.P.(S) No.5223 of 2011 With W.P.(S) No.2809 of 2013 With W.P.(S) No.1252 of 2014 With W.P.(S) No.1395 of 2014 W.P.(S) No.1757 of 2011 Sriram Prasad Tiwari ... Petitioner Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi. 2 2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. ... Respondents With W.P.(S) No.3048 of 2007 Shrawan Kumar Sinha Petitioner

Versus 1. The State of Jharkhand.

2. Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. ... Respondents With W.P.(S) No.1742 of 2011 Md. Jeebrail Petitioner Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.1743 of 2011 Ram Lakhan Prasad Petitioner Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.1744 of 2011 Nand Kishore Ram Petitioner Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.1754 of 2011 Uma Shankar Singh Petitioner Versus 1. State of Jharkhand through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. Respondents 3 With W.P.(S) No.1755 of 2011 Madan Mohan Ram Petitioner Versus 1. State of Jharkhand through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.1808 of 2011 Md. Gufran Ansari Petitioner Versus 1. State of Jharkhand through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.1816 of 2011 Arun Kumar Dubey Petitioner Versus 1. State of Jharkhand through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi.

4. Principal Secretary, Revenue Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.1820 of 2011 Nityanand Sharma Petitioner Versus 1. State of Jharkhand through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. ... Respondents With W.P.(S) No.1850 of 2011 1. Sada Nand Prasad 2. Md. Masood Alam Khan ... Petitioners Versus 1. The State of Jharkhand.

2. The Principal Secretary, Rural Development Deptt. Government of Jharkhand, Ranchi.
3. The Principal Secretary, Personnel Administrative Reform and Raj Bhasa Deptt., Ranchi.
4. The Principal Secretary, Panchayati Raj and NREP (Special Division) Department, Government of Jharkhand, Ranchi. 4 5. The Secretary, Finance Department, Government of Jharkhand, Ranchi.
6. The Deputy Commissioner, Dhanbad. Respondents With W.P.(S) No.1905 of 2011 Ishwar Narayan Singh ... Petitioner Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.
2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.
3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.1910 of 2011 Hriday Prakash Verma Petitioner Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.
2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.
3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.1925 of 2011 Basudeo Baraik Petitioner Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.
2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.
3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. ... Respondents With W.P.(S) No.1931 of 2011 Ram Bilas Mahto Petitioner Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development

Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. ... Respondents With W.P.(S) No.2004 of 2011 1. Ashok Kumar 2. Deepak Kumar ... Petitioners Versus 5 1. The State of Jharkhand through its Chief Secretary, Ranchi.

2. The Principal Secretary, Rural Development Deptt. Government of Jharkhand, Ranchi.

3. The Joint Secretary, Rural Development Deptt. Government of Jharkhand, Ranchi.

4. The Principal Secretary, Personnel & Administrative Reforms Deptt., Government of Jharkhand, Ranchi.

5. The Secretary, Department of Finance, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.2060 of 2011 Budheshwar Oraon Petitioner Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. ... Respondents With W.P.(S) No. 2062 of 2011 Silmani Horo Petitioner Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. ... Respondents With W.P.(S) No.2188 of 2011 Rajendra Kumar Choudhary ...

Petitioner Versus 1.State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. ... Respondents With W.P.(S) No.2194 of 2011 (With I.A No.3406 of 2011) Arvind Kumar ... Petitioner Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.3754 of 2011 Sharvan Kumar Sinha ... Petitioner 6 Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi.

4. Principal Secretary, Revenue Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.5123 of 2011 Diwakar Prasad Petitioner Versus 1. The State of Jharkhand through its Chief Secretary, Ranchi.

2. The Principal Secretary, Rural Development Deptt., Government of Jharkhand, Ranchi.

3. The Joint Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

4. The Principal Secretary, Personnel & Administrative Reforms Department, Government of Jharkhand, Ranchi.

5. The Secretary, Department of Finance, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.5223 of 2011 1. Shrawan Kumar 2. Shailendra Kumar Gupta 3. Rajiv Kumar Sinha 4. Jagarnath Oraon Petitioners Versus 1. The State of Jharkhand through its Chief Secretary, Ranchi.

2. Principal Secretary, Rural Development Deptt., Government of Jharkhand, Ranchi.

3. Principal Secretary, Department of Personnel, Administrative Reforms and Rajbhasa, Government of Jharkhand, Ranchi.

4. Principal Secretary, Panchayatiraj Department, Government of Jharkhand, Ranchi.

5. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.2809 of 2013 1. Jay Prakash Yadav 2. Abhay Kumar Gupta 3. Sanjay Kumar Singh 4. Surendra Narayan Sah Petitioners Versus 1. State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi.

4. Principal Secretary, Revenue Department, Government of Jharkhand, Ranchi. Respondents With 7 W.P.(S) No.1252 of 2014 Siyaram Singh Petitioner Versus 1. The State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. Respondents With W.P.(S) No.1395 of 2014 Rajiv Kumar Giri Petitioner Versus 1. The State of Jharkhand, through the Principal Secretary, Rural Development Department, Government of Jharkhand, Ranchi.

2. Principal Secretary, Panchayati Raj Department, Government of Jharkhand, Ranchi.

3. Principal Secretary, Finance Department, Government of Jharkhand, Ranchi. ... Respondents ----- CORAM : THE HONBLE MR. JUSTICE H. C. MISHRA ----- For the Petitioners : M/s Indrajeet Sinha, A.K.Sahani, Onkar Nath Tiwary, Rajiv Kumar, Afaq Ahmad, Altaf Hussain For the Respondents : M/s Ashok Kumar Sinha, J.C to G.P.I, Sarvendra Kumar, Binod Singh Mr. H.K. Mehta, A.A.G. Mr. Rakesh Kumar Shahi, J.C to A.A.G Mr. A.K. Agrawal, J.C to SC V Mr. Anuj Burman, J.C to S.C. V Mr. Bhawesh Kumar, S.C. II. Mr. Rahul Kamlesh, J.C to S.C. II Mrs. Chandra Prabha, S.C IV Mr. Rohit, J.C. to S.C IV For the Intervener : Mr. Sumeet Gadodia, Advocate. (I.A No.3406/11 in W.P.S No.2194/2011) ----- 15/22.9.2016 Heard the learned counsels for the petitioners, learned counsels for the respondent State as also learned counsel for the intervener in I.A No.3406 of 2011 filed in W.P.S No.2194 of 2011.

2. The petitioners were initially appointed as Extension Officers (Industrial and Commerce) in the unified State of Bihar, by its Department of Rural Development, and were posted under the District Rural Development Authorities (in short DRDA). The posts were advertised by the Department of Rural Development in the unified State of Bihar and the candidates were selected through Bihar Subordinate Services Selection Board. The selected candidates were recommended to be posted as Extension Officers (Industries & Commerce) in different DRDAs, wherein the names of the petitioners also find place and the petitioners were allotted the DRDAs, which fell within the territorial jurisdiction of the State of Jharkhand after its creation.

3. The petitioners and the other similarly situated persons were claiming absorption of their services by the State Government and the writ applications were filed in the State of Bihar as also in the State of Jharkhand. After the creation of the State of Jharkhand, the writ application was filed in this Court in W.P.(S) No.7280 of 2005 (Mukesh Kumar & Ors. Vs. The State of Jharkhand through the Chief Secretary & Ors.), which was disposed of by order dated 27.10.2009, directing the Secretary, Panchayati Raj Department, Government of Jharkhand, to

comply the directions issued by the State Government, in which, the State Government had taken a decision to absorb the services of those officers. However, a contempt application had also to be filed in this Court for compliance of that order, and thereafter, by notification No.958 dated 17.2.2011, the services of 70 Extension Officers (Industries and Commerce) and 18 Statistical Investigators working in different DRDAs in the State, were absorbed by the State Government with effect from the date of issuance of its notification dated 17.2.2011.

4. In the State of Bihar, in compliance of the directions of the Patna High Court in C.W.J.C No.6263 of 2007 and in C.W.J.C No.6467 of 2007, a notification was issued as contained in Memo No. 6479 dated 27.7.2009, by the State of Bihar in its Department of Rural Development, whereby, the services of all the Extension Officers working in the different DRDAs in the State of Bihar, were absorbed with effect from the dates of their initial joining, which benefit has been denied to the petitioners.

5. One of the similarly situated Officer approached this Court in W.P.(S) No.6229 of 2015 (Uma Kant Sahay Vs. The State of Jharkhand through the Chief Secretary and Ors.). When the said writ application was taken up, it was pointed out that several other writ applications on this very point were pending. The said W.P.(S) No.6229 of 2015 has been allowed by order dated 31.8.2016, taking note of the fact that the services of the persons similarly situated, who were posted in the State of Bihar have been absorbed with effect from the date of their respective initial joining, whereas the officers, who were posted in the territorial jurisdiction which fell within the State of Jharkhand after its creation, had been denied the said benefits. The said writ application was allowed, directing the State Government to forthwith absorb the services of the said petitioner and other similarly situated Extension Officers, whose services have since been absorbed as Gram Panchayat Supervisors, with effect from the dates of their respective initial joining as Extension Officers (Industries and Commerce). The respondent authorities were directed to issue the notification to that effect positively within the period of eight weeks from the date of communication / production of a copy of the order.

6. Learned counsels for all the petitioners submit that their respective cases are fully covered by the decision of this Court in Uma Kant Sahay's case (supra), and the same order may be passed in the present case also.

7. In W.P.(S) No.2194 of 2011, an Interlocutory application being I.A No.3406 of 2011 has been filed by some of the Intervener respondents, apprehending that their seniority may be affected by the order passed by this Court.

8. The order dated 31.8.2016 passed in W.P(S) No.6229 of 2015 clearly shows that this Court has taken care of all the petitioners also and it has been directed that the services of all the Extension Officers, whose services have since been absorbed as Gram Panchayat Supervisors, shall be absorbed from the respective dates of their initial joining as Extension Officers, which shall include the petitioners also. As such, no separate direction is required to be given in the present writ applications, except clarifying that the cases of the petitioners shall also be governed by the order dated 31.8.2016 passed in W.P.(S) No.6229 of 2015.

9. So far as the apprehension of the Interveners in I.A No.3406 of 2011 filed in W.P.(S) No.2194 of 2011 is concerned, it is for the respondent State to decide the seniority matter. It is submitted that many of the petitioners have since retired, during the pendency of these writ applications. It goes without saying that those petitioners shall also be allowed the pensionary benefits treating their services to be absorbed with effect from the dates of their initial joining within the same period, as directed in W.P.(S) No.6229 of 2015.

10. All these writ applications stand disposed of, in terms of the order dated 31.8.2016 passed in W.P.(S) No.6229 of 2015. I.A No.3406 of 2011 in W.P.(S) No.2194 of 2011 also stands disposed of. (H. C. Mishra, J.) BS/

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