

State of Jharkhand and ors Vs. Arun Kumar Dhar

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Court : Jharkhand

Decided On : Jun-20-2013

Appellant : State of Jharkhand and ors

Respondent : Arun Kumar Dhar

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI L.P.A. No. 262 of 2011 The State of Jharkhand & Others ... Appellants Versus Arun Kumar Dhar ... Respondent ----- CORAM: HON'BLE THE CHIEF JUSTICE HON'BLE MR. JUSTICE R.R. PRASAD HON'BLE MR. JUSTICE APARESH KUMAR SINGH ----- For the Appellants : Mr. Shamim Akhtar, S.C. (Mines) For the Respondent : M/s. Rajendra Krishna, Krishna Shankar & Amit Sinha, Advocates ----- Order No. 07 Dated 20th June, 2013 The petitioner was served with a notice of his retirement with effect from 30.09.2010 assuming that petitioner shall be deemed to have been appointed at the age of 18 years. The petitioner challenged the said communication superannuating the petitioner. The petitioner's writ petition was allowed vide order dated 08.03.2011 directing the respondents to accept the petitioner's actual and recorded date of birth. It has been held that petitioner will be continued in service and shall be paid the emoluments till he attains the age of superannuation according to his actual and recorded date of birth. This judgment of the learned Single Judge dated 08.03.2011 has been challenged before the Division Bench of this Court and matter has been referred to the Larger Bench by the Division Bench vide order dated 9th January, 2012. Hence, matter came up before this Court. In this case, though arguments were heard but the respondent-

State submitted that after conclusion of the arguments they will submit notification dated 28.05.1991, reference of which is given in the Full Bench judgment of the Patna High Court delivered in the case of Ragjawa Narayan Mishra Vs. The Chief Executive Officer, Bihar Rajya Khadi Gramoudyog Board & Others reported in 2006(1) PLJR 410 The said notification has not yet been submitted. There is reference of one circular of 1998 in the same judgment in para 16, copy of that circular is also not produced by either of the parties. Therefore, the matter is pending before this Court. I.A. No. 1099 of 2013 The petitioner/respondent has moved I.A. No. 1099 of 2013. We heard learned counsel for the parties on the application and we are of the considered opinion that there is no just reason to deny the benefits to the petitioner for which he is admittedly entitled, accepting his retirement order with effect from 30.09.2010 subject to decision of this L.P.A. and which benefit can be increased if the appellants will fail in this L.P.A. The benefit on the basis of petitioner's retirement with effect from 30.09.2010 cannot be denied. Therefore, I.A. No. 1099 of 2013 is allowed. The respondents/appellants are directed to compute petitioner's all service benefits including the retiral benefits by calculating his retirement from 30.09.2010. The retirement benefits shall be paid to the petitioner/respondent within two month from the date of receipt of a copy of this order. The respondents/appellants may submit the copies of the above referred circulars by or before 01.07.2013. Put up on 01.07.2013 under the same heading. (Prakash Tatia, C.J.) (R.R.Prasad, J.) (Aparesh Kumar Singh, J.) Birendra/

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