

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.488 of 2021

In
Civil Writ Jurisdiction Case No.2535 of 2020

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RAM PUKAR SINGH son of late Jagdish Singh resident of village- Rampur (Nerua), P.O. Mirzapur, P.S.- Nabinagar, District- Aurangabad, Bihar presently residing at Adarsh Nagar, Near Bariya Chowk, P.O- Sudna, Daltonganj, P.S.- Medninagar, District- Palamau- 822101, Jharkhand

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Water Resources Department, Government of Bihar.
3. The Chief Engineer, Research and Training, Irrigation Research Institute, Khagaul, Patna, Bihar
4. The Deputy Director, Division 3, Research and Training, Irrigation Research Institute, Khagaul, Patna, Bihar
5. The State of Jharkhand, through the Principal Secretary, Department of Water Resources, Government of Jharkhand at Ranchi
6. The Accountant General, Bihar, Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sanket, Advocate
For the Opposite Party/s	:	Mr. Lalit Kishore (Ag)
For the AG	:	Mr. Bindhyachal Rai, Advocate
For the State	:	Mr. Anjani Kumar, AAG - 4

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

8 24-04-2023 Heard learned counsel for the petitioner and learned

AAG-4 Shri Anjani Kumar for the State.

The present contempt application has been filed
alleging violation of the order dated 24.02.2020 in C.W.J.C.
No. 2535 of 2022.

The learned counsel for the petitioner submits that
petitioner being a Research Assistant was granted pay scale of



Rs. 10,500-15,200/- under 2nd ACP with effect from 15.11.2000 by the State of Jharkhand vide Memo No. 762 dated 03.04.2007. Thereafter, the petitioner was transferred to the State of Bihar from the State of Jharkhand by order dated 31.05.2007. The petitioner joined on the post of Research Assistant in Water Resources Department, Patna on 06.06.2007 and thereafter superannuated from the post on 31.12.2007 from the State of Bihar. After retirement when the petitioner did not get his pension in the pay scale of Rs. 10,500-15,200/- under the 2nd ACP, he filed a writ petition being C.W.J.C. No. 4692 of 2014 before this Court.

The said writ application i.e., C.W.J.C. No. 4692 of 2014 was disposed of with a direction to the petitioner to challenge the Memo No. 3043 dated 10.09.2014 issued by the State of Jharkhand withdrawing the benefits of the 2nd ACP, it appears that petitioner instead of moving before the Hon'ble Jharkhand High Court in terms of the order dated 09.05.2016 in C.W.J.C. No. 4692 of 2014, challenged the same in LPA No. 1298 of 2016.

The learned counsel next submits that LPA No. 1298 of 2016 was disposed of by order dated 21.08.2017, wherein it was held that - 'Considering the fact that the order



dated 10.09.2014 was passed by the State of Jharkhand withdrawing the earlier ACP granted to the appellant (petitioner), the learned writ court has not committed any error in holding that for interfering with this order passed by the State of Jharkhand withdrawing the ACP granted by the State of Jharkhand, territorial jurisdiction is not available with this Court as the cause of action arose in the State of Jharkhand'.

Accordingly, finding no case for interference into the matter, we grant liberty to the appellant to challenge the said order before the State of Jharkhand. Depending upon the outcome of the said challenge, the appellant would be entitled to be paid or granted the consequential benefit accruing thereto from the State of Bihar.

The learned counsel for the petitioner thus submits that from perusal of the order passed by the Hon'ble Division Bench of this Court in LPA No. 1298 of 2016, it would manifest that the Hon'ble Court had clearly held that since the benefit of ACP was given by the State of Jharkhand to the petitioner while he was posted there and the same was later withdrawn by the State of Jharkhand, as such, the Patna High Court did not had the jurisdiction to interfere with the order



passed by the Jharkhand High Court, as such, liberty was granted to the petitioner to challenge the said order before the Jharkhand High Court, and in the event, if the petitioner would succeed the benefits would be paid by the State of Bihar. The learned counsel next submits that similarly situated employees like him had already moved the Jharkhand High Court seeking similar relief by filing WP(S) No. 5262 of 2014, the said writ application was allowed by order dated 21.06.2016 by the learned Single Judge of the Hon'ble Jharkhand High Court. The order dated 21.06.2016 in WP(S) No. 5262 of 2014, clearly recorded – the benefit of this order shall be given to other similarly situated officers also, irrespective of the fact whether they are still in service or retired, without unnecessarily forcing them to approach this Court for the same relief. The learned AAG 4, at this stage submits that the said order was confined to the employees of the State of Jharkhand only.

The learned counsel thus submits that by the time the order came to be passed in LPA No. 1298 of 2016, the Hon'ble Jharkhand High Court had already adjudicated the issue as aforesaid. It is next submitted that the said order passed by the learned Single Judge of the Jharkhand High



Court was challenged in LPA but no relief was granted to the State of Jharkhand as such all the employees who were working in the State of Jharkhand got the benefit sans the petitioner as he was transferred to the State of Bihar as recorded hereinabove. It is further submitted by the learned counsel that in terms of the order passed in LPA No. 1298 of 2016 the benefit automatically had to come to the petitioner by the authorities of the State of Bihar, but as usual the authorities always have a lackadaisical approach and the petitioner thus remained bereft of his dues to which he was legally entitled, forcing him to move again before this Court by filing C.W.J.C. No. 2535 of 2020. It is submitted that C.W.J.C. No. 2535 of 2020 was allowed by order dated 24.02.2020, wherein the learned Single Judge clearly recorded that the petitioner would be entitled to be paid or granted the consequential benefits accruing thereto by the State of Bihar no fresh order is required to be passed as already the Division Bench in LPA No. 1298 of 2016 has observed that the payment would depend upon the outcome of the litigation before the Jharkhand High Court. The learned counsel next submits that the benefits of the judicial order till date remains elusive. It is next submitted that petitioner till date is running



from pillar to post.

The learned AAG-4 has filed a show cause.

The learned AAG-4 at the outset submits that what has been submitted by the learned counsel for the petitioner on the face of it appears to be very attractive but when considered in its entirety, the submissions are fit to be rejected, for non-compliance of the order of the Writ Court affirmed in appeal by the Hon'ble Division Bench as recorded hereinabove. The learned AAG-4 next submits that petitioner had initially moved before this Court by filing C.W.J.C. No. 4692 of 2014 challenging the order by which the State of Jharkhand had withdrawn the ACP granted to its employees including the petitioner. The learned AAG-4 submits that the Writ Court without any ambiguity decided that the cause of action which has arisen cannot be adjudicated by this Court and thus directed the petitioner to move before the Hon'ble Jharkhand High Court. It is next submitted that the petitioner instead of availing his remedy before the Jharkhand High Court, challenged the order dated 09.05.2016 in C.W.J.C. No. 4692 of 2014 by filing LPA No. 1298 of 2016.

It is submitted that LPA No. 1298 of 2016 was also disposed of in the terms as recorded hereinabove. The learned



AAG-4 thus submits that petitioner on both the occasion when he had approached this Court was given a specific direction to move before the Jharkhand High Court but for reasons best known to the petitioner, he chose not to move rather he kept on agitating his claim before this Court. The learned AAG-4 next submits that had the petitioner moved before the Jharkhand High Court challenging the order of withdrawal of ACP in his case then State of Bihar would have been made a party respondent in the writ application and the State of Bihar would have taken the stand which it is taking in the present contempt application. It is thus submitted that the parity which the petitioner is seeking with the employees of the State of Jharkhand to succeed, the same parity cannot be claimed by the petitioner as he was allocated the State of Bihar. It is next submitted that issues have been raised in the show cause to substantiate that petitioner was not entitled for the grant of ACP by the State of Jharkhand and the benefit was rightly withdrawn.

The learned AAG-4 next submits that after the order was passed by the Hon'ble Division Bench of the Jharkhand High Court affirming the order passed in the writ application by the Hon'ble Jharkhand High Court, the petitioner moved



before this Court by filing C.W.J.C. No. 2535 of 2022 which was disposed of by order dated 24.02.2020. It is next submitted that against the order dated 24.02.2020 in C.W.J.C. No. 2535 of 2022, the State of Bihar filed LPA No. 471 of 2022. It is submitted that LPA No. 471 of 2022 was disposed of by order dated 28.02.2023, wherein liberty was granted to the State to raise all the issues before this Court in contempt proceeding. Learned AAG-4 further submits that no mandamus was issued by the learned Writ Court in C.W.J.C. No. 2535 of 2022, it is next submitted that petitioner is alleging contempt based on the order passed by the Hon'ble Jharkhand High Court as recorded hereinabove, where the State of Bihar was not a party respondent.

It is thus submitted that the State of Bihar never got an opportunity to rebut the submissions of the petitioner before the Hon'ble Jharkhand High Court and before this Court, the case of the petitioner was never adjudicated on merits, it is thus submitted that can it be construed that the State of Bihar has committed contempt, it is also submitted that State of Bihar is not at all obliged to comply the order passed by the Hon'ble Jharkhand High Court in terms of Article 226 of the Constitution of India as the order passed by



the Hon'ble High Court of Jharkhand is confined to its jurisdiction and moreso when State of Bihar was not a party before the Hon'ble Jharkhand High Court. The learned AAG-4 next submits that had the petitioner in compliance of the order of the Writ Court and the Hon'ble Division Bench had moved before the Hon'ble Jharkhand High Court claiming the relief which he claimed in the writ application i.e., in C.W.J.C. No. 4692 of 2014 before the Hon'ble Jharkhand High Court and the State of Bihar would have been impleaded as a party respondent and after hearing the State of Bihar, the Hon'ble Jharkhand High Court would have passed the same order which was passed in WP(S) No. 5262 of 2014, affirmed by the Hon'ble Jharkhand High Court in L.P.A. No. 99 of 2016, then definitely the State of Bihar had no option but to grant the relief which the petitioner is pursuing.

The learned AAG-4 next submits that it absolutely does not stand to reason that as to why the petitioner was feeling shy in approaching the Hon'ble Jharkhand High Court when this Court in its writ jurisdiction and in appeal had given specific direction to the petitioner to move before the Hon'ble Jharkhand High Court, was it because the petitioner was aware that if he would file a writ application before the



Hon'ble Jharkhand High Court by impleading the State of Bihar as a party respondent then he would not get the same relief which was granted to the other similarly situated employees who are working in the State from Jharkhand.

The learned AAG-4 next submits that there is no order in favour of the petitioner as of date by any Court of competent jurisdiction granting him the relief which has been granted to other employees of the State of Jharkhand. It is also submitted that no doubt the Hon'ble Jharkhand High Court in WP(S) No. 5262 of 2014 has recorded that the benefit of this order shall be given to other similarly situated officers also, irrespective of the fact whether they are still in service or retired, without unnecessarily forcing them to approach this Court for the same relief but then the same cannot be stretched to an extent to mean that the order has to be implemented even by an Authority who was never heard nor impleaded as a party respondent in WP(S) No. 5262 of 2014, further the order of the Hon'ble Jharkhand High Court was confined to the employees of the State of Jharkhand only.

The learned AAG-4 had made various submissions to substantiate that the petitioner is not entitled for the grant of ACP as granted by the State of Jharkhand in the State of



Bihar, it is next submitted that the State of Jharkhand later withdrew the ACP granted to its employee, but the Hon'ble Jharkhand High Court granted the relief, to the employees of the State of Jharkhand, but then the petitioner cannot claim parity with the employees of the State of Jharkhand, moreso when the petitioner never moved before the Hon'ble Jharkhand High Court in terms of the order of the Writ Court and Hon'ble Division Bench, as recorded hereinabove, by impleading the State of Bihar as party respondent. It is next submitted that the petitioner in the State of Bihar has been granted his first ACP and second ACP and accordingly, his retiral benefits have been calculated and is being paid. The learned AAG-4 thus submits that the State of Bihar has paid the legitimate dues of the petitioner but will not accede to the fanciful demand being raised by the petitioner and that too in absence of any challenge. The learned AAG-4 next submits that it absolutely does not stand to reason that as to why the petitioner did not challenge the grant of first and second ACP granted to him by the State of Bihar, why he accepted the same and now why is he agitating this claim based on an order in which the State of Bihar was not a party.

The Court after hearing the learned AAG-4, does not



find any merit in the contempt application. The contempt application is dismissed.

However, the petitioner would be at liberty to pursue his remedy in accordance with law by moving before the Hon'ble Jharkhand High Court in terms of the order of this Court, recorded hereinabove.

(Satyavrat Verma, J)

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