

Radhakant Jha

Vs

Chief Commissioner and Others

Civil Appeal No. 1224 of 1987

(O. Chinnappa Reddy, V. Khalid JJ)

05.05.1987

JUDGMENT

CHINNAPPA REDDY, J. -

1. Special leave granted.

2. The appellant was working as a Teacher-Instructor in the Teachers Training Wings Reformatory School, Hazaribagh, Bihar, He was an employee of the Government of Bihar. In 1959, he answered an advertisement and was selected for appointment as Instructor (Cane & Bamboo Works) by the Andaman & Nichobar Administration. The order of appointment was with effect from October 9, 1959. He continued to work in that post till 1966 when he was appointed as officiating Extension Officer (Industries) by the Development Commissioner, Andaman and Nichobar Administration. According to the respondents, the work of the appellant as an Extension Officer (Industries) was not found to be satisfactory and therefore by an order dated May 11, 1971 his services were terminated with effect from July 25, 1967. The appellant questioned the order of termination of service in the Calcutta High Court. The High Court held that the order was in order in so far as it operated for the future but was inoperative in so far as it purported to be retrospective. The view of the learned single judge was affirmed by the Division Bench. The appellant, has preferred the present appeal under Art. 136. This appeal was originally heard by Venkataramiah and Thakkar, JJ. who directed that the appellant should be paid a sum of Rs. 20,000/- in full settlement of all his claims in addition to whatever had already been directed to be paid to him under the decree of Civil Court, Calcutta in Money suit No. 72/76. However, the order of the court was set aside on an application for review filed by the appellant. The appeal has now been heard again by us. At the conclusion of the hearing we adjourned the case to enable the learned counsel for the Andaman and Nichobar Administration to seek instruction whether the matter could not be settled amicably. As that has not been possible, we now proceed to pronounce our judgment.

3. It appears that the Andaman and Nichobar Administration wanted to treat the appellant as if he was on deputation from the Government of Bihar, and so, directed him to report for duty to the Bihar Government on being relieved by the Andaman and Nichobar Administration. When the appellant so reported for duty he was informed that he was no longer in the service of Government of Bihar as his lien had been long since terminated on his joining the service of the Andaman and Nichobar Administration. There can, of course, be no question of the appellant having been sent on deputation. He applied for the post of Instructor under the Andaman and Nichobar Administration and he was selected for appointment and appointed as Instructor. At no time was there any question of his having been sent out on deputation. While he was holding the post of Instructor he was appointed as Extension Officer. He was found unsuitable for that post, the proper thing to do was to

revert him to the post, which he was holding before he was appointed as an Extension Officer that is, to the post of Instructor. Instead of that, his services were straightway terminated. We think that it was not right that the services of the appellant should have been terminated in that fashion. He was entitled to be reverted to the post which he was previously holding. In that view, the order terminating the service of the appellant is quashed.

4. The question now is what is the relief to be granted to the appellant. At this distance of time there is no point in directing the rein-statement of the appellant as Instructor. Nor is it possible for us to award full back wages for this long period. Instead of remitting the matter to the High Court to find out whether the appellant was gainfully employed during this period, we think that the interests of justice will be sufficiently met if the appellant is awarded three-fourth back wages from the date of termination of service up to date or to the date of his attaining the age of 58 years whichever is earlier. It is so ordered. The amount due to the appellant less whatever amount has already paid to the appellant will be paid to him within four months from today.

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