

Jharkhand High Court

Lala Ramagya Prasad vs Jharkhand State Electricity ... on 30 January, 2008

Equivalent citations: 2008 (1) JCR 625 Jhr

Author: R K Merathia

Bench: R K Merathia

ORDER Ramesh Kumar Merathia, J.

1. Heard the parties finally.

2. The petitioner has filed this writ petition against refixation of his pay scale by deducting it with effect from 14.9.1994 from Rs. 2330 to Rs. 2160.

3. Mr. Das, appearing for the petitioner, submitted that the petitioner was rightly granted selection grade scale and then he was promoted to the post of Accounts Assistant as per the rules, but in 2004, the Director of Accounts, without giving opportunity of hearing to the petitioner, refixed his pay scale. He further submitted that now it has been held by the Full Bench in the case of The State of Jharkhand and Ors. v. Padamalochan Kalindi and Anr. 2007 (4) JLJR 451 : 2008 (1) JCR 5 (Jhr) (FB), that if any amount has been wrongly paid, the same can be recovered in view of the judgment of State of Jharkhand and Ors. v. Girish Kumari Prasad and Ors. 2004 (2) JCR 524 (Jhr) but only after following the principles of natural justice or after taking recourse to Rule 43 (b) of the Jharkhand Pension Rules, 2000 (for short "the Pension Rules").

4. Mr. Sidharth Ranjan, appearing for the board on the other hand submitted that as the petitioner was granted promotion wrongly about which the petitioner knew that he was not entitled, no opportunity of hearing was required to be given to him by the Director of Accounts when he found that the petitioner was wrongly given promotion. However, he could not dispute that in view of the Full Bench judgment, opportunity of hearing should have been given to the petitioner before refixation.

5. Admittedly before fixation, the petitioner was not given opportunity of hearing and no proceeding has been started under Rule 43 (b) of the Pension Rules as yet.

In the circumstances, the impugned Board's Notification No. 125 dated 24.10.2000 (Annexure 4) is set aside with liberty to the Board to proceed in accordance with the Full Bench judgment if they so chose, but in that event, as the petitioner has now retired from service during the pendency of the writ petition, proceedings, if any, will be concluded as early as possible and preferably within three months from the date of initiation thereof provided the petitioner cooperates in early disposal of such proceedings.

6. With these observations and directions, this writ petition is disposed of.