

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5599 OF 2007

STATE BIHAR (NOW JHARKHAND) & ORS. ...APPELLANT(S)

VERSUS

SHARAT CHANDRA SINGH DEO ...RESPONDENT(S)

WITH

CIVIL APPEAL NO.1352 OF 2008

O R D E R

1. These appeals are directed against the judgment and order passed by the High Court of Jharkhand at Ranchi in L.P.A. No.484 of 2004 with L.P.A. No.485 of 2004, dated 31.01.2006, whereby and whereunder, the High Court has set aside the judgment and order of the learned Single Judge.

2. We have heard the learned counsel for the parties to the lis and carefully perused the

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documents on record.

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3. The question, in short, arises for our consideration is whether the High Court is justified in directing the State Government to reinstate the respondents into service, pay the arrears of salary and also to grant the promotional benefits to the respondents.

4. Admittedly, after conducting an interview the Zila Parishad had issued a letter of appointment dated 25.03.1986. The offer so made by the Zila

Parishad was accepted by the respondents w.e.f.

31.03.1986. The appointments of the respondents were

to the post of Ayurvedic Doctors in Zila Parishad, run

and managed by Zila Parishad.

5. It is neither in dispute nor can it be

disputed by the respondents that the notification

came to be issued by the State Government on

06.02.1986, taking over the dispensaries managed by

the Zila Parishad along with the staff members w.e.f.

01.12.1985.

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6. As we have already indicated that the

appointment of the respondents was w.e.f. 31.03.1986,

on that day the Zila Parishad, in our considered

opinion, had no authority to issue such letter of

appointment since the dispensary where they were

asked to work was already taken over by the State

Government by issuing a notification on 06.02.1986.

7. The appellants, however, had permitted the

respondents herein to work as Ayurvedic Doctors in

the dispensaries which were taken over by the State

Government during the period 1986 to 1997.

8. Since the appellants had not paid the

salaries and other monetary benefits, the respondents

were constrained to approach the Writ Court not only

for regularization but also for the payment of salary

for the aforesaid period.

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9. Taking into consideration, the non-payment

of salary, though the work was extracted by the State

Government, a direction was issued by the Writ Court

to the State Government to pay the salary for the

aforesaid period. However, when it came to the

question of regularization, the learned Single Judge dismissed the Writ Petition.

10. The respondents had filed an appeal before the Division Bench of the same High Court. The Division Bench had allowed the appeal.

11. In our opinion, the Division Bench was not justified in granting the relief sought by the respondents for the sole reason that the day when the letter of appointment was issued by the Zila Parishad to the respondents, it had no authority or power to issue such a letter since the State Government by issuing an appropriate notification had already taken over the dispensaries managed by the Zila Parishad.

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12. In view of the above, we set aside the order passed by the High Court and restore the order passed by the learned Single Judge. However, we make it clear that the appellants shall not demand the refund of the amounts/salaries paid to the respondents for the period 1986-1997.

13. The civil appeals are disposed of with aforesaid observations and directions.

Ordered accordingly.

.....CJI.
(H.L. DATTU)

.....J.
(ARUN MISHRA)

.....J.
(AMITAVA ROY)

NEW DELHI,
MARCH 19, 2015.

ITEM NO.112

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 5599/2007

STATE BIHAR (NOW JHARKHAND) & ORS.

Appellant(s)

VERSUS

SHARAT CHANDRA SINGH DEO

Respondent(s)

WITH

C.A. No. 1352/2008

(With Interim Relief and Office Report)

Date : 19/03/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Appellant(s) Mr. Anil K. Jha, Adv.
Mr. R.K. Ojha, Adv.

For Respondent(s) Mr. Samdarshi, Sanjay, Adv.
Mr. Venkateswara Rao Anumolu, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The civil appeals are disposed of in
terms of the signed order.

(Neetu Khajuria)
Sr.P.A.

(Vinod Kulvi)
Assistant Registrar

(Signed order is placed on the file.)