

(2011) 07 JH CK 0254

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3428 of 2002

Aghori Pandey

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-07-2011

Acts Referred:

Citation : (2011) 4 JCR 234

Hon'ble Judges : Prashant Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prashant Kumar, J.—In this writ application, petitioner prayed for issuance of a direction on respondents to pay him senior selection grade w.e.f. his juniors were getting said scale. Petitioner further prayed for revising his pension as per the revised scale of pay. Petitioner also prayed for payment of his provident fund with interest @ 18% per annum.

2. It is stated that petitioner initially appointed as office assistant in Ranchi Municipality. Thereafter w.e.f. 23.2.1968 petitioner appointed as Headmaster in Tharpakna Municipality School as he obtained qualification of B.A. Trained. It is further stated that after coming into force of Non-Government Elementary School Taking Over Act, 1976, all schools of Ranchi Municipality had been taken over by the State Government w.e.f. 1.1.1971. Thus from that date petitioner become employee of State Government. It is further stated that after the acceptance of recommendation of 4th pay revision committee, pay scale of all State Government employees and teachers revised w.e.f. 1.4.1981. According to the said pay revision, teachers of Government school entitled to get junior selection grade and senior selection grade. It is stated that on 23.6.1988 final gradation list of trained graduate/Headmaster of the district published and in that gradation list, petitioner was at serial No. 31. It is further stated that on 10.8.1988 petitioner got junior selection grade w.e.f. 1.4.1981 by Annexure-1. However respondents did not give benefit of said scale, as service book of petitioner was

not available at that time. It is stated that petitioner gave representation for giving him benefit of junior selection grade, because he was going to retire very shortly. It is further stated that petitioner retired from the service on 31.1.1994. After his retirement, vide order No. 1788 dated 12.8.1994 petitioner's pay was revised and his pension fixed on the basis of revised salary. It is further stated that after retirement, petitioner came to know that one of his junior, namely, Machindra Ram, who was at serial No. 46 of the gradation list, had been given senior selection grade w.e.f. 1.4.1986. Thus, it is prayed that the petitioner also entitled to get senior selection grade w.e.f. 1.4.1986. It is stated that respondents had not paid provident fund amount i.e. Rs. 70,000/- to the petitioner. Accordingly, present writ application filed for the aforesaid relief.

3. Two counter-affidavit filed by the respondent No. 3 (District Provident Fund Officer) wherein, it is stated that during the tendency of this writ application, authority slip to the tune of Rs. 1.03,775/- and Rs. 4050/- issued vide Annexure-A&B for payment of provident fund amount to the petitioner. Respondent No. 2, namely, Deputy Superintendent of Education, Ranchi, in his supplementary counter-affidavit dated 1.3.2007 at paragraph No. 12, had stated that entire GPF amount as per authority slip issued by District Provident Fund Officer, Ranchi, has been paid to the petitioner. Petitioner has not filed any rejoinder controverting aforesaid statement made in the supplementary counter-affidavit filed by respondent No. 2. Thus the second prayer of petitioner, for issuance of direction upon respondent to pay provident fund amount, has become infructuous.

4. Now coming to the first prayer i.e. regarding direction for giving senior selection grade, it is stated by the respondent No. 2 in his supplementary counter-affidavit that recommendation of 5th pay commission implemented by Human Resource Development Department w.e.f. 1.1.1986 vide resolution No. 6022 dated 18.12.1989. It is further stated that according to para 13 (iv) of said resolution, all teachers, who got junior or senior selection grade before 1.1.1986 and completed 12/25 years of services, should get revised senior pay scale w.e.f. 1.1.1986 Ignoring the senior selection grade or second time bound promotion. It is further stated in the said counter-affidavit that the basic pay of a Headmaster was Rs. 850 to 1360, junior selection grade pay of Headmaster was Rs. 940 to 1660, senior selection grade pay of Headmaster was Rs. 1000 to 1820, whereas senior pay scale was Rs. 2200 to 4000/-.

5. It is further stated in the supplementary counter-affidavit that since petitioner fulfill all criteria mentioned in para 13(iv) of the aforesaid resolution dated 18.12.1989 respondents gave him senior pay scale i.e. Rs. 2200 to 4000/-, w.e.f. 1.1.1986, thus the question of giving him senior selection grade w.e.f. 1.4.1986 as claimed by him in the writ application does not arise. It is stated that his pension also fixed on the basis of senior pay scale. Petitioner did not file rejoinder to the second counter-affidavit filed by respondent No. 2.

6. In view of the aforesaid circumstances, since petitioner got higher scale w.e.f. 1.1.1986 ignoring senior selection grade or second time bound promotion as per

the recommendation of 5th pay revision committee, therefore, he is not entitled to get senior selection grade (which is lower than senior pay scale) w.e.f. 1.4.1986.

7. Under the said circumstance, no relief can be granted to the petitioner as prayed by him. Hence, this writ application is dismissed. Application dismissed.