
(2003) 07 JH CK 0104

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4466 of 2001

Anil Kumar Jha and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 08-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 3 JCR 432

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : Ram Chandra Jha and Umesh Mishra, for the Appellant; M.S. Anwar, for the Respondent

Judgement

Tapen Sen, J.—Heard Mr. Ram Chandra Jha, learned counsel for the petitioner and Mr. M.S. Anwar, learned counsel for the respondent Nos. 3 to 6.

2. The grievance of the Writ Petitioner initially was for a direction upon the respondent to pay salary to the petitioners with effect from 01.01.1999 with compound interest and also to consider their cases for payment in the regular grade of the Lecturers following the principle of "equal pay for equal work" together with all increments etc. They had also made a prayer for their absorption in the A.S. College Satsang, Deoghar which was made a constituent unit of the Sidhu Kanju University, Deoghar in the third phase with effect from 12.12.1980. Consequently, the petitioners pray that as a result of such absorption, all consequential benefits be given including arrears of salary etc.

3. Mr. R.C. Jha, learned counsel for the petitioners has submitted that the petitioners have worked uninterruptedly right from the day they joined their services yet for the period 01.01.1999 to August 2002 (i.e. for 44 months), their salaries have been stopped on the ground that the college was not affiliated in the Science faculty. Mr. Sohail Anwar, learned counsel for the University submits that the affiliation up to Intermediate level was given sometime in the year 1980-81.

4. On the earlier occasion, while admitting the Writ Application, liberty was given to the petitioners to move the Secretary, Human Resources Development Department, Government of Jharkhand, in relation to the matter pertaining to payment of salary for two months. The parties have stated at the bar that by order 26th February, 2003, permanent affiliation has been granted to the college in the Science faculty for both Pass and Honours courses in different subjects and 15 posts have been subsequently approved by order dated 01.03.2003. These two orders are Annexures-12 and 13 of the Supplementary Affidavit filed on behalf of the petitioners.

5. In that view of the matter, Mr. R.C. Jha learned counsel for the petitioners submits that he now confines his Writ Application for the payment of salary for the 44 months i.e. for the period 01.01.1999 to August 2002 and also for a direction upon the respondents to consider the regular absorption of the petitioners in accordance with law for the entire period that they have worked.

6. So far as the first confined prayer is concerned i.e. the one relating to payment of salary, there, is no dispute that the petitioners have worked continuously and uninterruptedly. At paragraph-5, the Writ Petitioners have specifically stated that the petitioners are working in the college in the Science Department continuously since their date of joining. In reply to the aforementioned paragraph, the University in their Counter Affidavit have stated as follows :--

"8. That the statements made in paragraph No. 3, 4, 5, 6, 16, 17, 28, 30, 32, 34, 37, 36, 38 and 40 of the writ petition under reply require no comment."

7. In that view of the matter, the statement of the petitioners in relation to continuous work being rendered by the petitioner having been accepted by the University, there is not justification in not giving them monetary benefits for the period they have actually worked.

8. Since the petitioners have all functioned and worked and rendered services in capacity of Lecturers continuously and uninterruptedly, they should be also be paid salary as per the universally accepted principle of "equal pay for equal work". However, the University at paragraph-15 of the Counter Affidavit has stated that the State Government has not been releasing any grant for purposes of payment of salary on the ground that there is no affiliation.

9. Mr. R.C. Jha, learned counsel for the petitioners has stated that the Secretary, pursuant to the order dated 23.01.2003 and also pursuant to the other directions passed in other cases is looking into the grievances of various Lecturers in relation to arrears of salary, absorption etc. including matters pertaining to this college. He further states that the said Secretary has also heard these petitioners and order has been reserved.

10. In that view of the matter, this Writ Application is being disposed off and the Secretary is directed to also look into the aforementioned two confined prayer

after taking into consideration the observations made above. Since the University has not disputed the factum in relation to continuous work rendered by the petitioners, the Secretary is, therefore, directed to look into the question relating to pay ability of salary of the petitioners with all expedition at his command. It goes without saying that before passing any final order, the Secretary shall give adequate opportunity of hearing to the petitioners. Let it be recorded that this Court has not appreciated the manner in which the petitioners have been subjected to veritable torture by non payment of salary for 44 months.

11. In that view of the matter, the Secretary shall look into these aspects strictly in accordance with law and in the event the petitioners are found eligible, he must pass orders as expeditiously as possible. It also goes without saying that if the petitioners are found eligible, the payment must carry interest at least at the rate of 6%.

12. With the aforesaid observations and directions, this Writ Petition is disposed off. There shall however be no order as to costs.