

(2013) 06 JH CK 0037
In the Jharkhand High Court
Case No : W.P.S. No. 5449 of 2002

Anil Kumar Kerketta and Others

APPELLANT

Vs

Ranchi University, Vice Chancellor and Registrar

RESPONDENT

Date of Decision : 21-06-2013

Acts Referred:

Citation : (2013) 4 AJR 332 : (2013) 3 JLJR 460

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : C.J. Sahay, for the Appellant; Anoop Kr. Mehta, for the Respondent

Final Decision : Dismissed

Judgement

S. Chandrashekhar, J.—The petitioners have approached this Court seeking quashing of order dated 26.11.2000 whereby the claim of the petitioners for arrears of salary from 1983 to 31.07.1993 has been rejected. The brief facts of the case are that, pursuant to an advertisement issued by the Ranchi University, the petitioners applied for being appointed in a Class-III post. The petitioner Nos. 2 to 5 joined the Kartik Oraon College, Gumla on different dates in 1983 whereas, petitioner No. 1 was engaged on daily wages in the same year. Subsequently, petitioner No. 1 was also appointed as Assistant on 13.08.1983 when the vacancy arose due to resignation of one Sheo Charan Oraon. As the petitioners were not granted the proper scale of pay they moved the High Court in C.W.J.G. No. 3585 of 1995 (R) which was disposed of vide order dated 02.07.1996 directing the respondents to fix the scale of pay of the petitioners. Since that was not done, the petitioners again moved the Court in C.W.J.C. No. 1448 of 1998 (R) which was also disposed of vide order dated 26.10.1999 with a direction to the respondents for payment of arrears of salary on account of pay-fixation. The petitioners were directed to file a representation before the Respondent No. 3, who was directed to dispose of the representation by a reasoned order. On 14.12.1999, the petitioners made a joint representation before the Respondent No. 3. In the meantime, a decision was taken by the

Syndicate on 19.04.1999 whereby those employees who were appointed on the basis of Staffing Pattern, on daily wages basis and regularised in terms of Government Letter dated 20.08.1993 were made entitled for the revision of pay-scale. However, even by that time when the representation of the petitioners was not decided, the petitioners had to prefer a contempt petition being M.J.C. No. 287 of 2000(R), in the proceeding of which a copy of order dated 26.11.2000 was filed by the respondents in the Court.

2. A counter affidavit has been filed on behalf of the respondents stating that,

In the representation (Annexure-6), there were two categories of applicants. One those who are appointed against the posts sanctioned by the Government after following the due process of law by a Selection Committee of the University pursuant to advertisement and interview, they have been paid their salary fixing the pay scale from their respective date of appointment. The second category of applicants like petitioners in this case, were appointed against unsanctioned posts but they were subsequently regularised with effect from 1.8.1993 as posts have been created/sanctioned by the Government vide letter No. 1154 dated 20.8.1993. Hence, they (second category) are entitled benefits with effect from 1.8.1993 after fixing pay scale from that date. Since the petitioners are regularised on posts sanctioned by the Government by its letter No. 1154 dated 20.8.1993, they are not entitled for the benefits of salary etc. prior to 1.8.1993. Hence, this writ petition is not maintainable.

3. Heard counsel for both the parties and perused the documents on record.

4. The only dispute in this petition is whether the petitioners were appointed pursuant to the selection process which took place in the year 1983 or pursuant to the posts which were created in the year 1993. A stand has been taken that the petitioners were not appointed against the sanctioned posts and the procedure prescribed for appointment was also not followed. The petitioners were regularised w.e.f. 01.08.1993, after the posts were sanctioned by the government and therefore, they were entitled for fixation of pay-scale w.e.f. 01.08.1993 only.

5. A supplementary affidavit has been filed by the petitioners bringing on record a copy of the advertisement dated 08.05.1983, a communication dated 14.06.2003 from Kartik Oraon College, Gumla, a copy of letter dated 17.09.1987 of the Ranchi University and letter dated 13.12.1982 of the Education Department, Government of Bihar written to the Vice Chancellor, Ranchi University. Relying on these documents, the learned counsel appearing for the petitioners submitted that at least two posts were available when the advertisement was issued and two among the petitioners have been appointed against those two posts.

6. By order dated 17.05.2013, the respondent--Ranchi University was directed to disclose the name of two persons who were appointed on the posts sanctioned by the Government by letter dated 13.12.1982. Pursuant to order dated

17.05.2013, an affidavit has been filed by the Ranchi University in which the number of posts and the name of the persons have been disclosed who were appointed on the posts created by the Government by letter dated 13.12.1982.

7. A perusal of the communication dated 17.09.1987 whereby the recommendation of the Selection Committee was communicated to the Principal, Kartik Oraon College, Gumla would disclose that the names which have been disclosed by the Ranchi University in its supplementary affidavit filed pursuant to order dated 17.05.2013 passed by this Court, contains the names of the persons whose names were recommended by the Selection Committee.

8. In the impugned order dated 26.11.2000, a stand has been taken by the respondents which is extracted below, The second category of persons have demanded for treating their services from 1983 and for payment of consequential benefits like the persons of category I. The persons of category-I were appointed against sanctioned posts whereas the persons in the second category were appointed against unsanctioned posts but were regularised w.e.f. 01.08.1993. As such their services can not be accepted from 1983.

Consequently their claims for arrears from 1983 to 31.07.1993 are hereby rejected. They are entitled to arrears w.e.f. 01.08.1993 which will be calculated and payment will be made in five annual equal instalments.

In view of the aforesaid, this writ petition is dismissed. However, it is made clear that if any order is passed by the Ranchi university particularly, office order dated 26.11.2000 which was issued pursuant to notification dated 21.04.1999, the dismissal of this writ petition would not come in the way of the petitioners in seeking benefit under the said order.