
(2016) 01 JH CK 0028
In the Jharkhand High Court
Case No : WP(S) No. 1010 of 2015

Ansalem Tirki

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 05-01-2016

Acts Referred:

Citation : (2016) 1 JBCJ 504 : (2016) 1 JLJR 655

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Baleshwar Yadav, for the Appellant;

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—1. Heard learned counsel for the parties. Petitioner's absence on account of illness from 1st November, 2006 to 17th April, 2007 while being posted as Assistant Teacher in Government Middle School, Keri, Balumath in the District of Latehar has been sanctioned by the respondent No. 3, District Superintendent of Education, Latehar vide Memo No. 969 dated 13th June, 2013 (Annexure-1) under the provisions of Rule 236 of Jharkhand Service Code as Extraordinary Leave. However, petitioner would not be entitled to annual increment during the said period. Petitioner is aggrieved by part of the said order, whereunder the annual increments have been withheld.

2. She relies upon the provisions of Rule 85 and Clause 5 of the Note appended thereto under Jharkhand Service Code. Rule 85 is quoted hereunder along with Note 5.

Rule 85. The following provisions prescribe the conditions on which service counts for increment in a time-scale:--

(a) All duty in a post on a time scale counts for increments in that time-scale.

(b) The following periods count for increment in the time-scale of post on which the Government servant concerned holds a lien, as well as in the time-scale of

the posts, if any, on which he would hold a lien, had his lien not been suspended:

(i) Service in another post other than a post carrying less pay referred to in Clause (a) of Rule 56, whether in a substantive or officiating capacity;

(ii) Service on deputation;

(iii) foreign service; and

(iv) all leave other than extraordinary leave.

(c) The following periods count for increments in the time-scale of a post in which a Government servant has been appointed to officiate, if he returns or is reappointed to officiate in the same post, or is appointed or reappointed to a post in the same time-scale of pay--

(i) officiating service in a post of higher pay,

(ii) service in a temporary post on higher pay,

(iii) service on deputation,

(iv) foreign service, and

(v) all leave other than extraordinary leave.

Note 5. Under the special order of the State Government in each case extraordinary leave when taken on account of ill-health or for any other cause beyond the Government servant's control or when taken for the purpose of study with a view to improve the Government servant's professional qualification and knowledge may be allowed to count for increment under Clauses (b) and (c) of this rule:

Provided that, when a special order of this nature has been made by the State Government in favour of a Government servant proceeding on extraordinary leave for the purpose of study, such Government servant shall on return for leave produce satisfactory evidence in the form of a degree, diploma or other qualification, or in form of a certificate from the head of the institution where the course of study, has been prosecuted to show that he had profited from the course of study and in default of the production of such evidence by the Government servant, the State Government may record the special order allowing the period of extraordinary leave to count for increment.

3. Apparently, petitioner did not proceed on Extraordinary Leave on account of ill-health under the special orders of the State Government. Her absence for the period of 168 days between 1st November, 2006 to 17th April, 2007 has been sanctioned invoking the Rule 236 of the Code as Extraordinary Leave. That is perhaps guiding reasons for denial of increment to the petitioner as the employer has not availed of her service and absence was also without any sanction at the relevant point of time. Therefore, this Court does not find any infirmity in the impugned condition incorporated in the order at Annexure-1 dated 13th June,

2013, calling for any interference. Accordingly, the writ petition is dismissed.