

(2010) 07 JH CK 0063
In the Jharkhand High Court

Arti Thakur and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 01-07-2010

Acts Referred:

Citation : (2010) 07 JH CK 0063

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.R. Prasaad, J.—Heard learned Counsel appearing for the petitioners and learned Counsel appearing for the respondents.

2. This writ application has been filed for quashing the order dated 13.5.2009 passed by the Secretary, Human Resources Department, respondent No. 2 as contained in Annexure 16 whereby arrears of salary paid to the petitioners was sought to be recovered on the basis of an order of the Supreme Court passed in SLP (C) No. 10955 of 2008 whereby the Hon'ble Supreme Court had observed that payment shall not be made till final decision is taken in the proceeding.

3. Learned Counsel appearing for the petitioners submits that when the petitioners' salary due to be paid from December, 2006 onwards was withheld that order along with the order under which two increments were stopped of both the petitioners were challenged before this Court, vide W.P.(S) No. 4131 of 2002 whereby this Court while affirming the order under which increments had been stopped directed the authority to pay arrears of salary to the petitioners. That order was challenged in L.P.A No. 168 of 2004 which was dismissed. Being aggrieved with that order the State moved before the Supreme Court, vide S.L.P (C) No. 10988 of 2008 wherein the Hon'ble Supreme Court taking notice of the order passed by this Court in C.W.J.C. No. 537 pf 2001 was pleased to observe that the State is still to pass final order in the matter and till final decision is taken by the State, arrears of salary is not to be paid to the petitioners but

before the order was passed, final decision had already been taken which would be evident from Annexures 9 and 10 which was subject matter of challenge in W.P. (S) No. 4131 of 2002 whereby this Court had directed the State to pay arrears of salary to the petitioners.

4. It was also pointed out that when contempt petition was filed, arrears of salary were paid to the petitioners but since the order has been passed by the Hon?ble Supreme Court in the aforesaid Special Leave to Appeal, the State authority passed another order whereby arrears of salary paid to the petitioners have been sought to be recovered and that has given cause of action to the petitioners to prefer this writ application.

5. Having heard learned Counsel appearing for the parties and on perusal of the record, I do find that the respondent did pass final order in the proceeding vide Annexures 9 and 10 to this writ application whereby two increments had been withheld and arrears of salary was also ordered to be stopped. Both the orders were challenged in W.P.(S) No. 4131 of 2002 whereby the Court while affirming the order under which increments had been stopped directed the authority to pay arrears of salary to the petitioners. That order was challenged in the L.P.A. No. 168 of 2004 which was dismissed.

6. Being aggrieved with that order, the State moved before the Supreme Court, vide S.L.P(C) No. 10955 of 2008 wherein the Supreme Court passed the order not to make payment of arrears of salary until final order is passed. But before that, final order had already been passed in the proceeding and that had been challenged in W.P (S) No. 4131 of 2002 which ultimately gave rise to S.L.P (C) No. 10955 of 2008. Before the order was passed in the said case by Hon?ble Supreme Court, payment had already been made pursuant to order passed by this Court in contempt petition, bearing Cont. Case (Civil) No. 841 of 2007.

7. Accordingly, the order dated 13.5.2009 passed by the Secretary, Human Resources Development Department, Government of Jharkhand, Ranchi as contained in Annexure 16 for recovery of the arrears of salary paid to the petitioners is hereby quashed.

8. In the result, this application is allowed.