

(2008) 04 JH CK 0075
In the Jharkhand High Court

Arun Sinha and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-04-2008

Acts Referred:

Citation : (2008) 3 JCR 91

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Judgement

R.K. Merathia, J.—Heard the parties finally.

2. Mr. Pandey, learned Counsel appearing for the petitioners, submitted as follows. The petitioner's were appointed in September/October, 1994 as Assistant Primary Teachers on the recommendation of the BPSC and on the basis of merit. The minimum qualification for appointment of such teachers was matric and weightage was to be given to trained, but as the petitioners had higher qualifications namely graduation and above they were given matric trained scale since their appointment, in the light of the Government circulars. They were given replacement scales subsequently of Grade-I. Petitioners repeatedly requested for sending them for training but they were sent only in 1998, and that too only after the orders passed by the Supreme Court on 5.9.1997. They completed the training in the year 1999 but the result was published in the year 2002 only after the intervention of the Court. In the circumstances, petitioners were not at fault in not acquiring training. Therefore, the petitioners should be given Grade IV scale as they have also completed the requisite period i.e. 8/12 years in service. He also relied on Clause 3 (Kha) of the Circular dated 25.6.1999, issued by the Finance Department, Government of Bihar, in which, it is said that the seniority of the untrained primary teachers will remain intact, in any case, even if they do not pass the training examination or if they do not get training. He also relied on the order dated 5.1.2007 passed in WPS No. 6264 of 2005-Jharkhand Police Association etc. and submitted that petitioners cannot be made to suffer if they were not sent for training and there was delay in

completing the training.

3. Counsel for the State on the other hand submitted as follows. It is true that on the basis of merits list and ranking list of the petitioners, they were appointed against matric trained pay-scale in accordance with different orders/directions of the State Government; and that as per the said Circular dated 25.6.1999. the seniority is to be counted from the date of appointment, but in view of paragraph 13 of GSR 28 dated 9.7.1993, petitioners are entitled for Grade 1 pay-scale from the date of passing Teachers Training Examination i.e. 3.5.2002. He lastly submitted that seniority list is yet to be finalized.

4. It is not disputed that petitioners were appointed In September/October 1994 in the matric trained scale and were subsequently given replacement scale of Grade-I as per the current Circulars. It is also not disputed that only after the intervention of the Court, petitioners were sent for training in 1998, and the result was published only In 2002 on the intervention of the Court. Therefore, it cannot be said that petitioners were at fault in not getting training. In these circumstances, the said judgment of Jharkhand Police Association (*supra*) supports the case of the petitioner. It is also not disputed that as per the Circular dated 25.6.1999, which is subsequent to the Circular dated 9.7.1993, petitioner's seniority is to be counted from their dates of appointment.

5. In the facts and circumstances of this case, as noticed above, petitioners' case should be considered for fixing their seniority from the date of their appointment. They should also be considered for giving benefit of Grade-IV scales after completion of 8/12 years of their service.

6. Accordingly, the petitioners will be at liberty to file individual representations, on which, the Director, Human Resources Development Department (Primary Education), Government of Jharkhand, Ranchi (respondent No. 2) will pass necessary orders in terms of this order within four weeks from the date of receipt/production of the representations. With these observations and directions this writ petition is disposed of. No costs.