
(2020) 01 JH CK 0107
In the Jharkhand High Court
Case No : Writ Petition (S) No. 6357 Of 2017

Arvind Kumar

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 08-01-2020

Acts Referred:

Citation : (2020) 01 JH CK 0107

Hon'ble Judges : Dr. S.N. Pathak, J

Bench : Single Bench

Advocate : Rahul Kumar, Binod Singh

Final Decision : Disposed Of

Judgement

Dr. S.N. Pathak, J

1. Heard the parties.

2. The petitioner has approached this Court with a prayer for direction upon the respondents to allow and pay the revised pay scale of Assistant

Professor (Senior Scale) w.e.f. 01.01.1996 and consequently revise and replace the same on account of 6th Pay Revision w.e.f. 01.01.2006 and has

also prayed for release the entire consequential arrears of difference of pay scale under Career Advancement Scheme (hereinafter referred as CAS)

as Assistant Professor (Senior Scale and Selection Grade) and also for pay protection to the post of Associate Professor to which he has been

appointed afresh on the recommendation of Public Service Commission w.e.f. 20.03.2013.

3. Factual matrix of this case is that on 01.08.1985 the petitioner had been appointed as a Lecturer at Magadh Engineering College, Gaya. The

petitioner obtained his Ph.D. Degree from Patna University in the year 1992. It is

further submitted that vide memo dated 07.10.1994, the services of the petitioner had been transferred from Magadh Engineering College to Bihar Institute of Technology (BIT), Sindri where he had submitted his joining on 17.10.1994 in the Department of Humanities. It has further been submitted that All India Council for Technical Education (AICTE) issued a notification dated 15.03.2000, prescribing revision of pay scale and other terms and conditions of services of the teachers of Degree Level Technical Institutions has been prescribed. The Notification stipulated for Career Advancement Scheme (CAS) according to which the eligibility to move into the Grade of Lecturer (Senior Scale) would be 4 years with Ph.D. and to move into the Grade of Lecturer Selection Grade it would be 5 years as Lecturer (Senior Scale). The said notification has duly been adopted and implemented by the State of Jharkhand. As per the said notification the petitioner having Ph.D. degree is entitled for enhancement of the pay scale. However, the authority denied the same as the petitioner had not been confirmed in the service. Further, the AICTE issued Regulation dated 22.01.2010, in relation to the pay scale and service conditions of the teachers in Technical Institutions which makes the petitioner eligible for promotion under Career Advancement Scheme to the higher post of Associate Professor upon completion of three years of service as an Assistant Professor (Selection Grade) but the authorities committed inordinate delay in implementation of the said notification and had stagnated the service career of the petitioner. It has been further submitted that vide notification dated 29.11.2010, issued by the Deputy Secretary, Science & Technology Department, Ranchi, upon recommendation of the Jharkhand Public Service Commission the service of the petitioner has been regularized as lecturer w.e.f. 31.1.1991. Further, vide letter dated 22.03.2011, the respondent college forwarded the application of the petitioner and others for grant of benefits under the Career Advancement Scheme. In the meantime, vide resolution dated 31.03.2012, the Government of Jharkhand has implemented the 6th pay Scale w.e.f. 01.01.2006 on the lines of the recommendations made by the AICTE as per which Assistant Professors (Senior Scale & Selection Grade) having completed 3 years of service by 01.01.2006 are entitled for revised pay scale of Rs. 37,400-67,000. But, the claim and entitlement of the petitioner under Career Advancement Scheme has been denied.

4. It has further been submitted that having found eligible in terms of advertisement floated by JPSC for appointment to the post of Associate

Professor the petitioner applied for the same and finally selected for the post of Associate Professor in the pay scale of Rs. 37,400-67,000 vide

appointment letter dated 13.03.2013. Pursuant to joining report dated 20.03.2013, the petitioner joined as Associate Professor in the Department of

Humanities. Thereafter, vide order dated 22.07.2013, the services of the petitioner has been confirmed as Assistant Professor w.e.f. 31.03.1993.

Further, the respondent college vide notification dated 21.01.2015, under the Career Advancement Scheme, granted the revised pay scale to the

Assistant Professors (Senior Scale and Selection Grade) from due date of eligibility and completion of requisite length of service, however since the

petitioner had been appointed to the post of Associate Professor on the recommendation of J.P.S.C., had been denied the said benefits. The petitioner

vide letter dated 31.01.2015, represented before the respondent authorities for consideration of his grievance but the same has been denied citing the

example of one Ravindra Sharma, who has also been promoted as Associate Professor in the pay scale of Rs. 37,400-67,000 w.e.f. 01.01.2006 vide

notification dated 28.12.2015. Aggrieved thereto the petitioner vide representation dated 03.10.2016 and 06.10.2017 represented before the respondent

authority. Learned counsel further submits that similarly situated persons have been given all the benefits but in the case of the petitioner the same has

been denied. The act of the respondents are arbitrary, discriminatory and not sustainable in the eyes of law.

5. Per contra, counter affidavit has been filed. Learned counsel for the respondents vehemently opposes the contention of the petitioner. Learned

counsel submits that regarding the payments of revised pay scale of Assistant Professor (Senior Scale) to the petitioner w.e.f. 01.01.1996 and

Assistant Professor (Selection Grade) w.e.f. 30.01.2001 under Career Advancement Scheme detailed report has been sought from the Director, BIT

Sindri vide memo dated 20.11.2017 and 23.02.2018 but no reply has been received till date. The learned counsel for the respondents further submits

that the petitioner was transferred to BIT Sindri, in the Department of Humanities from the Magadh Engineering College, Gaya, in the year 1994. The

services of the petitioner was considered as the ad-hoc because his appointment

was not concurred by the Public Service Commission, due to which the benefits to 5th Pay Commission was not given to the petitioner along with other similarly situated employees. The service of the petitioner has been regularized vide Government notification no. 3410 dated 29.11.2010 and the case of the petitioner for promotion under Career Advancement Scheme (CAS) was considered by the Departmental Promotion Committee. Consequently, vide letter dated 22.03.2011, the name of petitioner was recommended for the up gradation in pay scale of AGP 8000. Meanwhile, subsequent to his selection to the post of Associate professor in Humanities is in view of Advertisement Dated 22.08.2007 floated by JPSC, the petitioner was appointed to the post of Associate Professor in PB-IV with AGP of Rs. 9000/- vide Government notification dated 18.03.2013. It is further submitted that since the petitioner accepted the fresh appointment as Associate Professor, the name of the petitioner for promotion under Career Advancement Scheme (CAS), as recommended by letter dated 22.03.2011, was not considered and his name was removed from the list as the petitioner was already getting higher AGP of 9000. It is reiterated by the learned counsel for the respondents that as the petitioner accepted and joined the post of Associate Professor in the AGP of 9000 upon his fresh selection pursuant to Advt. dated 22.08.2007 floated by JPSC his case for promotion under CAS was not considered as it would have made him entitled for dual benefits which is not tenable in the eyes of law. However, the cases of other teachers were considered for promotion under Career Advancement Scheme (CAS) vide notification dated 21.01.2015.

6. After hearing the learned counsel for the parties across the Bar and on perusal of the documents brought on record, this Court is of the considered view that the services of petitioner to the post of Assistant Professor has been considered w.e.f. 31.03.1993 and subsequently recommendation was made for grant of scale of the Assistant Professor (Sr. Scale and Selection Grade) under the Career Advancement Scheme but the same is denied in case of petitioner only because he has been appointed to the post of Associate Professor on the recommendation J.P.S.C. which is not accepted to this Court. Admittedly, the post of the petitioner along with 13 other professors were regularised vide Government notification no. 3410 dated 29.11.2010 and upon regularisation the petitioner along with other 13 professors

became entitled for promotion under Career Advancement Scheme,
the proposal of the same was received by the department vide letter contained in
Memo No. 284 dated 22.03.2011 for up gradation in Pay Scale of
Assistant Professor (Senior Scale with present AGP 7000) and Assistant Professor
(Selection Grade with present AGP 8000). In view of averments
made in the counter-affidavit, I hereby direct the respondent authorities to take
decision regarding grant of revision of pay scale of Assistant Professor
(Senior Scale) w.e.f. 01.01.1996 and of Assistant professor (Selection Grade)
w.e.f. 31.01.2001 to the petitioner with all consequential benefits, in
accordance with law, within a period of eight weeks from the date of receipt of a
copy of this order.

7. In view of the above directions and observations, the writ petition stands
disposed of.