

(2006) 08 JH CK 0074

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2646 of 2004

Ashok Kumar Rout and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-08-2006

Acts Referred:

Citation : (2007) 1 JCR 124

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Advocate : N.K. Sahani, for the Appellant; J.C. to Sr. S.C.-II, for the Respondent

Judgement

Permod Kohli, J.—Petitioners were recruited as Metric Trained Teachers initially. They claimed higher pay scale on the basis of their qualifications and experience. Their claim was rejected vide memo No. 853 dated 29.10.1999. One of the petitioners, namely, Ashok Kumar Rout, filed C.W.J.C. No. 3631 of 1999 before this Court challenging the rejection order. The said writ petition was disposed of on 14.6.2001 with a direction to the respondents to reconsider the claim of the petitioner and to determine whether the petitioner was actually entitled for promotion to next higher grade-IV of B.A. Trained scale w.e.f. 4.5.1995, taking into consideration the availability of vacancy and eight years of completion of service in the Metric Trained pay scale. It was further directed that if any representation is filed by the petitioner, the District Superintendent of Education, Lohardaga will place the matter before the appropriate Committee and communicate the decision. Petitioner has placed on record the vacancy position to indicate that vacancies were available. The case of the petitioner was forwarded by the District Education Officer, Lohardaga. Petitioner No. 1 was promoted in the B.A. Trained scale of Rs. 5500-9000/- vide order dated 22.10.2001. Similarly other petitioners were promoted vide order dated 12.12.2001. Later their salary was fixed in the relevant pay scale vide orders dated 3.11.2001 and 4.12.2002. Initially pay of the petitioners were released in the higher pay scale. However, thereafter it was stopped following the petitioner

filed another writ petition being W.P.(S) No. 1476 of 2002. This petition came to be disposed of vide order dated 7.3.2002 and direction was issued to the District Superintendent of Education, Lohardaga to make payment to the petitioners and if for some reasons, he feels constraint he will pass a speaking order. Pursuant to the aforesaid direction, a conditional order came to be passed by the District Superintendent of Education on 28.8.2002 whereby salary of the petitioner in higher pay scale was released subject to the condition that if the petitioners are disallowed salary by the Establishment Committee, the amount shall be recovered from them. Now the respondents have passed an order dated 6.4.2004 stopping the payment of salary on the promotional post of the petitioners. It is this order which is under challenge in this petition.

2. In the present petition, respondent-State has taken a stand that the case of the petitioner has not been approved by the Establishment Committee as required under rules and as per the directions of this Court in the judgment dated 14.6.2001. From perusal of various orders and documents placed on record by the petitioner, it is evident that the promotion of the petitioner has not been considered by the Establishment Committee. Even the order whereby the salary of the petitioner was ordered to be released also clearly indicates that release of salary is subject to approval by the Establishment Committee. For grant of promotion to the higher pay scale of B.A. Trained Teachers approval by the Establishment Committee is required under the rules and also in terms of the judgment of this Court. Admittedly there is no approval of the competent authority. It is for this reason that the salary of the petitioner in the promotional post has been withheld, Keeping in view the above circumstances, this petition is disposed of with a direction to the respondent No. 3 to place promotion case of the petitioner before the District Education Establishment Committee along with service records to enable the Committee to consider the case of the petitioners for promotion within a period of six weeks. The Committee shall consider the case of petitioners for promotion and if approved by the Committee, they will be entitled to promotion w.e.f. the date of their eligibility. However, they will be entitled to monetary benefits only with effect from the date they were actually promoted. In the event the claim is to be rejected, it shall be by a reasoned order to be communicated to the petitioners. Needless to say that petitioner shall have a right to seek appropriate remedy in accordance with law.