
(2008) 06 JH CK 0018
In the Jharkhand High Court

Awadh Bihari Mishra and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 16-06-2008

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (2008) 3 JCR 559

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Narendra Nath Tiwari, J.—In this writ petition the petitioners have prayed for quashing the letter dated 3.5.2003 (Annexure-13) whereby the representation of the petitioners has been rejected holding that the untrained teachers would not be entitled for promotion from Grade-I scale onwards and that they would be entitled for promotion to Grade-I scale only from the date of obtaining the Teachers' Training.

2. The petitioners were appointed as untrained teachers by the Human Resources Development Department, Government of Bihar in accordance with its policy decision and resolution dated 5.3.1991. The Government of Bihar had also framed the Rules known as the Bihar Primary School Teachers' Rule, 1991 in exercise of its power under Article 309 of the Constitution of India wherein there was a provision for appointing the untrained teachers and after appointment, for sending the said teachers for in-service Teachers' Training in the Government Colleges.

3. The petitioners were untrained Graduate and were appointed in the year 1994 on the basis of the merit list prepared after completing all the legal formalities. The Director, Primary Education, Government of Bihar by Letter No. 998/95 dated 7.6.1995 took a decision to grant Grade-I scale of the Matric Trained to the untrained teachers who were Graduate. However, after the appointment of

teachers, they were not sent for training. The appointment procedure was also challenged before the Patna High Court. The matter went up to the Hon'ble Supreme Court in Ram Vinay Kunmr and Ors. v. State of Bihar and Ors. SLP (Civil) No. 23187/1996. In the said S.L.P., the Supreme Court gave certain direction on the State of Bihar for sending the petitioners for in-service training. The Finance Department, Government of Jharkhand by letter No. 4568 dated 5.7.2002 granted Grade-I Matric Trained scale to such untrained teachers w.e.f. 1.1.1996. It was also decided that the seniority position of the petitioners shall be maintained as per the merit list prepared at the time of their appointment. However, the petitioners have been stagnated in the same scale for more than 12 years without any up gradation in the scale. Although the persons appointed with the petitioners have been promoted from Grade-I scale to Grade-IV scale, the petitioners have not been given even Grade-II scale. They made representation through their Association which was rejected by the Government of Jharkhand indicating that the untrained teachers would not be entitled for promotion from Grade-I scale to Grade-VIII scale and that they would be entitled to Grade-I scale only from the date of attaining the Teachers' Training. The petitioners are aggrieved by the said order.

4. Today when the case is taken up for hearing, it has been submitted by learned Counsel for the petitioners that in the similar fact situation, other writ petitions have been disposed of by this Court holding that the petitioners' seniority is to be counted from the date of their appointment and that the petitioners are entitled for consideration of fixing their seniority from the date of their appointment and also for consideration of giving the benefit of Grade-IV scale after completion of 8/12 years of their service. Such directions have already been given by this Court in Balwant Sahay v. The State of Jharkhand and Ors. WP (S) No. 4235/2004 and Arun Sinha v. The State of Jharkhand and Ors. WP (S) No. 638/2006.

5. The said legal position has not been disputed by learned Counsel for the respondents.

6. I have perused the decisions/ directions given by this Court in the said cases. This case is squarely covered by the said decisions of this Court. In view thereof, the impugned order/letter dated 3.5.2003 contained in Annexure-13 is, hereby, quashed. It is held that the respondents are entitled to get Grade-I scale from the date of their Joining i.e. from 29.10.1994 and not from the date of completion of the Teachers' Training.

This writ petition is allowed in the said terms.