
(2019) 08 JH CK 0097

In the Jharkhand High Court

Case No : Writ Petition (S.) No. 2380 Of 2014

Baidyanath Choudhary And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 02-08-2019

Acts Referred:

Citation : (2019) 08 JH CK 0097

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : H.K. Mahto, Sunil Kumar Singh

Final Decision : Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. H.K. Mahto, learned counsel appearing for the petitioner and Mr. Sunil Kumar Singh, learned G.A.I appearing for the respondents.

2. The present writ petition has been preferred by the petitioner for quashing the order dated 30.03.2011 whereby the salary of the petitioner w.e.f 25.07.2005 to 29.06.2009 has been withheld. He further prayed for (B) For issuance of the appropriate writ/writs, order/orders, direction/directions to grant and pay-

(i) Salary since 01.11.2004 to June 2009.

(ii) The 2nd time bond promotion since November 2004.

(iii) Arrear of annual increment since 01.01.2006 in the pay scale @ 3% on the basic scale.

(iv) Arrears of pay revision since 01.01.2006 for 300 days unused Medical Leave.

(v) The amount of statutory interest since 01.07.2009 to the date after March 2014 the G.P.F. amount Rs. 6,14,416/- paid on March 2014.

(vi) The due arrear for not giving one increment over final pension along with

statutory and penal interest over the aforesaid amount for withholding them illegally and cost and compensation for harassment to the petitioner.

3. Mr. Mahto, learned counsel appearing for the petitioner submits that the petitioner was transferred by Annexure-I dated 11.11.2004 to join Kuchai Middle School. He further argues that the higher authorities by various orders stayed transfer of the petitioner, on the request of the petitioner, this fact is admitted in Annexures- 2 and 3 which are issued by Regional Deputy Education Director and Annexure-4 by Deputy Director and he submits that the petitioner was working at Adityapur Middle School. He further submits that the impugned order has been passed after the retirement of the petitioner and the Annexures-2, 3 and 4 of the writ petition have not been taken into account while the impugned order was passed. He further submits that some other retiral benefits, which are pending, have not been released in favour of the petitioner.

4. On the other hand, Mr. Sunil Kumar Singh, G.A. I for the State submits that the petitioner was absent on different period that is why the salary, in question, is withheld. The petitioner has no right to receive the same. He further submits that pursuant to departmental proceeding the petitioner was noticed in spite of that, the petitioner did not appear for departmental proceeding as such there is no illegality in the impugned order. He further submits that so far as other retiral dues are concerned that are already released in favour of the petitioner.

5. Mr. Mahto disputed the fact that the retiral dues have been released in favour of the petitioner.

6. Be that as it may, it transpires that the impugned order has been passed after the retirement of the petitioner and at the time of passing the impugned order, the Annexures-2, 3 and 4 of the writ petition have not been taken into consideration and as such the impugned order cannot sustain in the eyes of law.

7. The impugned order is quashed. So far as the other retiral benefits are concerned, the petitioner is not disclosed that impugned amount which are dues to the State respondents. As such the petitioner is directed to approach the competent authority with the data and under the heading to which the petitioner is entitled for such payments. He will do so within two weeks' from the date of receipt/production of a copy of the order. The authority concerned is directed to pass appropriate order within four weeks' thereafter. So far as the impugned order dated 30.03.2011 is concerned authority will also pass appropriate order after providing appropriate opportunity of being heard to the petitioner in the light of the order passed herein above.

8. With the aforesaid directions and observations, the writ petition stands allowed and disposed of.