
(2012) 03 JH CK 0029
In the Jharkhand High Court
Case No : C.W.J.C. No. 2115 of 2001

Bijendra Kumar Sinha and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 01-03-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 2 JCR 523

Hon'ble Judges : P.P. Bhatt, J

Bench : Single Bench

Advocate : Anoop Kumar Mehta, Ashutosh Anand and Amrendra Pradhan, for the Appellant;

Final Decision : Allowed

Judgement

P.P. Bhatt, J.—Heard the learned counsel appearing for the petitioners as well as the learned counsel appearing for the State. Perused the papers. These two writ petitions have been heard together and are being disposed of by a common order. In C.W.J.C. No. 2115 of 2001 the petitioners have prayed for quashing Annexure-12 and in W.P.(S) No. 3366 of 2001 the petitioners have prayed for quashing Annexure-8. Both the annexures are same and identical.

2. The petitioners by way of filing these writ petitions under Article 226 of the Constitution of India have prayed for quashing the office order contained in Memo No. 18(GO) dated 14.7.2000 issued under the signature of the respondent No. 5 by which B.Sc trained scale given to the petitioners w.e.f. 1.7.1992, 1.10.1992 and 1.7.1992 respectively (in C.W.C. No. 2115 of 2001) and w.e.f. 1.7.1992 and 1.10.1992 respectively (in W.P.(S) No. 3366 of 2001) have been cancelled. It is further prayed that necessary direction may be issued to the respondents not to give effect of the aforesaid impugned order dated 14.7.2000 as recovery of excess amount was sought by the respondents under order dated 14.7.2000.

3. It appears that the present petitioners were appointed in the B.Sc untrained scale of Rs. 680-965/- after following the due process of appointment. All the petitioners have completed requisite training on 24.6.1992 and they have been given B.Sc trained scale w.e.f. 1.7.1992/ 1.10.1992 as the case may be and as per the said order, effect was given to the petitioner No. 1 (C.W.J.C. No. 2115 of 2001) on 1.7.1992, petitioner No. 2 (C.W.J.C. No. 2115 of 2001) on 1.10.1992 and petitioner No. 3 (C.W.J.C. No. 2115 of 2001) on 1.7.1992 respectively and petitioner No. 1 (in W.P(s) 3366 of 2001) on 1.7.1992 and petitioner No. 2 (in W.P. (s) 3366 of 2001) on 1.10.1992 respectively. It appears that subsequently vide order dated 14.7.2000 the benefit of B.Sc trained scale has been withdrawn without giving them reasonable opportunity and without assigning any rational reason for withdrawal of the pay scale which has been granted to them after attaining training. It appears that similar set of facts in W.P(S) Nos. 1555, 1556, 1575 of 2003 this Court, after careful consideration of the facts and circumstances of that case, allowed the writ petitions and the respondents were directed to pay the petitioners the Graduate Trained Science Teachers pay scale with effect from their respective dates on which they acquired teachers training and the subsequent revised pay scale as also to pay them the arrears thereto within a period of two months from the date of receipt/production of a copy of this order. On perusal of the said judgment it transpires that the facts were similar to that of the present cases. It appears that arguments advanced by the learned counsel appearing for the State were also similar to that of the arguments advanced in the aforesaid case. However, surprisingly the respondents-State without considering the ratio laid down in the said judgment cancelled the B.Sc trained scale which was given to the petitioners vide order dated 5th May, 1994. It also appears that during pendency of these petitions by order dated 22.12.2011 the respondents have also stopped making payment of salaries to the present petitioners without waiting for the out come of these petitions. It is pertinent to note that after preliminary hearing of these petitions this Court was pleased to pass an interim order whereby the respondents were prevented from recovering the excess amount of salaries given to the petitioners in pursuance to the order dated 14.7.2000. Thus this fact was very well within the knowledge of the respondents-State and the authorities concerned, however, ignoring this fact the order dated 22.12.2011 came to be passed and therefore, the petitioners were constrained to file Interlocutory applications with these petitions challenging the said order. As discussed herein above, the case of the petitioners is squarely covered by the judgment referred to and relied upon by the learned counsel for the petitioners reported in Arbind Bhushan Dey and Others, Suresh Kumar Sharma and Others and Ashok Kumar Prajapati Vs. State of Jharkhand and Others, and therefore, applying the ratio of the said judgment and considering the facts and circumstances of the case these writ petitions are allowed and the order dated 14.7.2000 (Annexure-12 and Annexure-8 respectively) is quashed. The respondents are directed to pay the petitioners the Graduate Trained Science Teachers pay scale with effect from their respective dates on which they acquired teachers training and the subsequent revised pay

scale accordingly and also to pay them the arrears thereto within a period of two months from the date of receipt/production of a copy of this order. Respondents authorities are further directed to release the salary of the petitioners which has been withheld since October, 2011 forthwith.