

(2018) 06 JH CK 0036
In the Jharkhand High Court
Case No : Writ Petition (C) No. 5220 of 2017

Chittranjan Nayak

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 19-06-2018

Acts Referred:

Jharkhand State Universities Act, 2000 — Section Section 4(1)(14)

Citation : (2018) 06 JH CK 0036

Hon'ble Judges : DR. S. N. PATHAK, J

Bench : Single Bench

Advocate : Prem Pujari Roy, A.K. Mehta

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the respondents.

2. In the instant writ application, petitioner has prayed for a direction upon the respondents to forthwith grant approval of the pay-scale of the

petitioner in the revised pay-scale pursuant to 5th Pay Revision Commission's Report w.e.f. 01.01.1996 since the services of the petitioner has

been absorbed by the Ranchi University in light of order passed by Hon'ble Supreme Court and also because the Ranchi University has already

made recommendation for grant of approval of the revised 5th Pay Scale to the petitioner. Petitioner has further prayed for a direction upon the

respondents to approve and pay the salary to the petitioner in 6th Revised Pay Scale with effect from the date the similarly situated persons have been

granted the said benefits.

3. Petitioner has also prayed for a direction upon the respondents to pay entire arrears of salary to him pursuant to approval of revision of pay-scale

pursuant to 5th Pay Revision w.e.f. 01.01.1996 till date and also to pay arrears of salary to him in the 6th Revised Pay Scale w.e.f. 01.01.2006 till

date. Further prayer has been made to pay the entire post retiral benefits with all consequential benefit including arrears and also to fix the final

pension on the revised pay-scale.Â Â

4. The brief facts of the case is that petitioner was appointed as Sorter in the Library of P. P. K. College, Bundu on 02.04.1985 and he has submitted

his joining on 03.04.1985. In pursuant to the joining of the petitioner on the said post, the service book of the petitioner was opened and the entries

were accordingly recorded therein, duly authenticated by the Principal of the said College. It is the further case of the petitioner that the erstwhile

State of Bihar took a decision for converting the P.P.K. College, Bundu into a constituent college of the Ranchi University and pursuant to letter

issued by State of Bihar and under an agreement, said College was converted into a Constituent College of Ranchi University. Admittedly, the

petitioner was working in the aforesaid college against recommended post, much prior to the cut-off date i.e. 30.04.1986 and was entitled for

absorption under Ranchi University. However, dispute with respect to various colleges which were converted into constituent college arose with

regard to absorption of teaching and non-teaching staff of the college against sanctioned post as well as against the post for which recommendations

were sent by the University to the State Government upto the cut-off date. In view of the aforesaid dispute with respect to regularization of the

employees working in one or other colleges prior to the date of taking over as a constituent college and its conversion, the said dispute was referred to

a Five Member Committee, consisting of the Vice-Chancellors of different Universities, constituted for identifying the teaching and non-teaching

staffs, working against one or the other sanctioned and recommended posts in the taken over constituent colleges. Thereafter, the said Committee vide

its letter dated 01.02.1988 and 12.02.1990, recommended the names of teaching and nonteaching staffs for absorption, in which the name of the

petitioner also found place.Â

5. It is the specific case of the petitioner that the said dispute travelled upto Honâ??ble Patna High Court and the Honâ??ble Court vide its

judgment dated 31.01.1997, directed the Universities, who are parties of that

writ to take steps for regularization of the services of the teachers of the colleges which have become constituent college of different universities in the fourth phase, in light of the communication of the State Govt. In compliance of aforesaid judgment, the services of the petitioner has been absorbed provisionally in Ranchi University under Section 4(1)(14) of the Jharkhand State Universities Act, 2000 w.e.f. 23.10.1986 vide order contained in memo No. 3349 dated 06.11.1998 and 07.10.1998 respectively. The aforesaid order passed by the Honâ??ble High Court of Judicature at Patna was subject matter before the Honâ??ble Supreme Court and the Honâ??ble Supreme Court appointed one member Committee of Honâ??ble Mr. Justice (Retd.) S.C. Agarwal to enquire into the matter and submit its report. In the report of One Man Committee, the name of the petitioner was duly reflected along with other nonteaching staff who are considered eligible for absorption i.e. employees working under non-teaching category against recommended posts prior to the cut-off date i.e. 30.04.1986. In compliance of the judgment of Honâ??ble Supreme Court and in compliance of the recommendation of Honâ??ble Agarwal Commission, the services of the petitioner was regularized provisionally in the Ranchi University w.e.f. 23.10.1986 vide order dated 03.03.2005 and 12.01.2007. Thereafter, the petitioner has been relieved from PPK College, Bundu to join Mander College, Mandar vide letter dated 01.07.2009. In pursuant to the said letter, the petitioner has given his joining at Mander College, Mandar on 02.07.2009. It is further submitted that the petitioner requested the respondent- Ranchi University to put his services on deputation in the PPK College, Bundu and acceding to the request, the petitioner has been remanded back to PPK College, Bundu on deputation and since then he has been rendering their service sincerely, diligently and to the full satisfaction of the respondent, without their being any complaint whatsoever. On 30.06.2014, the petitioner has superannuated from services.Â

6. It is the specific case of the petitioner that though the similarly situated persons have been given the benefits 5th Pay Revision and 6th Pay Revision from the due date, but so far as the case of the petitioner is concerned, the benefit of 5th Pay Revision is given w.e.f. March, 2011 by the respondent- University, subject to approval by the H.R.D. Department and benefits under 6th Pay Revision is yet not given to the petitioner. In this regard, the

petitioner has made several representations for grant of the said benefits with due date but the respondents have not paid any heed to the said request and were sitting tight over the matter.

Hence, the petitioner has knocked the door of this Honâ??ble Court.

7. At the very outset, learned counsel for the petitioner draws the attention of this Court towards the order dated 27.07.2016 passed by a co-ordinate

Bench of this Court in W.P.(S) No. 3260 of 2016 and also order dated 31.01.2018 by this Honâ??ble Court in W.P.(S) No.5197 of 2017,. Pursuant to

the order dated 27.07.2016 passed by this Honâ??ble Court in W.P.(S) No. 3260 of 2016, ViceChancellor, Ranchi University has passed order dated

04.05.2016, granting the benefits to the petitioners of W.P.(S) No. 3260 of 2016. Learned counsel for the petitioners further submits that this writ

petition may also be disposed of in terms of the order passed in W.P.(S) No. 3260 of 2016 and W.P.(S) No. 5197 of 2017, granting similar benefits to

this petitioner also.Â Â

8. Per contra, no counter-affidavit has been filed by the respondents. However, learned counsel appearing on behalf of the respondents very fairly

submits that the case of the petitioner is fully covered by the order passed by this Court in W.P.(S) No. 3260 of 2016 and W.P.(S) No. 5197 of 2017

and further agrees to the contention that similar benefits may be extended to the petitioner. Learned counsel for the respondents has no objection if the

instant writ petition is disposed of in terms of the aforesaid cases.Â Learned counsel for the respondents further argues that if the petitioner is found

to be on similar footings, an appropriate order shall be passed, extending similar benefits to this petitioner also.

9. In view of fair submissions made by the learned counsel for the parties, this writ petition is being disposed of in terms of observations made in W.P.

(S) No. 3260 of 2016.Â I direct the respondent No. 2, The Director Higher Education, Human Resource Development Department, Govt. of

Jharkhand, Ranchi to consider the claim of the petitioner, in accordance with law and to come to an independent conclusion whether the petitioner is

entitled to get the benefit of the recommendation of the 5th and 6th Pay Revision Commissions from the respective due dates. While arriving to a

conclusion, the respondent No. 2 will take into consideration the notification issued by the Ranchi University, by which the services of the petitioner

stood regularized. He will also take into consideration the provisional pay fixation done by the Ranchi University, which has been forwarded to the

State. This exercise should be completed by the Director, Higher Education, Human Resource Development Department, Govt. of Jharkhand, Ranchi,

within a period of twelve weeks from the date of receipt of a copy of this order.

10. If it is found that the petitioner is entitled to get the benefits, as claimed, necessary consequential order shall also be passed within a period of three

weeks thereafter. If any amount is to be sanctioned for disbursing to the University for making payment to the petitioner, the same should be done

within a period of five weeks thereafter. The University on receipt of such amount will disburse the same to the petitioner within a period of two

weeks thereafter.

11. It is made clear that if the petitioner herein, are on similar footings to the petitioners in W.P.(S) No. 3260 of 2016 and W.P.(S) No.5197 of 2017,

similar benefits must be extended to the present petitioner also, as respondents have already granted the benefits to the petitioners of W.P.(S) No.

3260 of 2016, vide order dated 04.05.2017 issued by the Vice-Chancellor, Ranchi University. As the petitioner is already retired, his pension shall also

be revised, in accordance with law, if found eligible.Â

12. The writ petition is accordingly, disposed of with the directions as above.