

(2018) 03 JH CK 0022
In the Jharkhand High Court
Case No : W.P.(S) No. 2867 of 2016

DAMODAR PANDEY

APPELLANT

Vs

STATE OF JHARKHAND

RESPONDENT

Date of Decision : 15-03-2018

Acts Referred:

Citation : (2018) 03 JH CK 0022

Hon'ble Judges : SHREE CHANDRASHEKHAR, J

Bench : Single Bench

Advocate : Ram Kumar Kataria, Raunak Sahay, S. Shrivastava

Final Decision : Disposed Of

Judgement

1. The petitioner who was appointed as Assistant Teacher on 25.01.1976 is aggrieved of order dated 09.03.2016.

2. Briefly stated, after his superannuation from service on 31.01.2014 when all admissible post-retiral benefits were not paid to the petitioner he came

to this Court inÂ Â W.P.(S) No.3784 of 2015. Grievance raised by the petitioner in the previous writ proceeding was in respect of payment of salary

for the period between 26.07.2011 to 21.03.2013 as well as for the period between 28.03.2011 to 24.07.2011. The writ petition stood disposed of by

order dated 06.01.2016 granting liberty to the petitioner to approach the District Superintendent of Education, with a fresh representation. The writ

Court observed that if claim for payment of post-retiral benefits and other service benefits are found legally admissible, the same shall be paid to the

petitioner within four weeks thereafter. In purported compliance of order dated 06.01.2016 the District Superintendent of Education, Hazaribag has

passed the impugned order dated 09.03.2016. One of the reasons for not

granting full salary and allowances to the petitioner for the period under suspension as indicated in order dated 09.03.2016 is, that the petitioner in a departmental proceeding has been awarded a punishment of 'nindan' and forfeiture of two annual increments by an order dated 23.07.2011. Now, it has been admitted by the petitioner that he has preferred representations dated 27.07.2011 and 30.07.2011 against the penalty order dated 23.07.2011.

3. In the above facts, no interference with order dated 09.03.2016 is permissible so long as the order of penalty is not quashed by the appellate authority/court. Accordingly, the petitioner is granted liberty to prefer a fresh appeal against the penalty order dated 23.07.2011 within a period of six weeks. On payment of salary for the period between 26.07.2011 to 21.03.2013, it appears that the petitioner who did not tender his joining in the middle school, Sudan, Circle-Barkatta only after the decision in W.P.(S) No.872 of 2012 joined the said school on 18.03.2013. Except referring to Rule 265 of Jharkhand Service Code, in its order dated 09.03.2016 the District Superintendent of Education, Hazaribag has not adverted to the plea taken by the petitioner indicating the circumstance in which he did not tender his joining in time and accordingly this part of the order is quashed. After a final decision in the appeal, if any, preferred by the petitioner, which it is expected shall be disposed of within a period of three months from the date it is filed, the petitioner may prefer a fresh representation to the District Superintendent of Education claiming full salary and allowances for the period under suspension as well the arrears of salary and post-retiral benefits accrued to him on quashing of the penalty order dated 23.07.2011, if it is quashed.

4. With the aforesaid liberty to the petitioner, the writ petition stands disposed of.