
(2008) 07 JH CK 0038
In the Jharkhand High Court

Dr. Daya Kant Jha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 30-07-2008

Acts Referred:

Citation : (2008) 4 JCR 97

Hon'ble Judges : Ajit Kumar Sinha, J

Bench : Single Bench

Judgement

Ajit Kumar Sinha, J.—The petitioner in this writ petition has prayed for issuance of a writ of mandamus or any other appropriate writ, order or direction against the respondents to pay him the entire retiral benefits after giving the benefit of time bound promotion w.e.f. 1.2.1985 with all consequential benefits and has further prayed to quash letter No. 1536 dated 16.8.2000, whereby his claim for time bound promotion has been rejected.

2. The facts, as narrated by the petitioner, are set out as under:

The petitioner was initially appointed as Assistant Professor of Mathematics on 8.5.1964 on ad-hoc, basis and later, he was permanently absorbed on 22.6.1996. He was given promotion as Associate Professor of Mathematics with effect from 23.9.1980. According to him, Notification No. 379 dated 16.2.1990 was issued by the Science and Technology Department, Government of Bihar, Patna, as it then was, and the petitioner claimed to be entitled for promotion to the post of Professor on the ground that he was duly qualified for the time bound promotion during his service period. The petitioner also submits that between the period 1.2.1985 and March, 1989 about 150 Assistant Professors and Associate Professors of B.I.T., Sindri, Dhanbad, M.L.T., Muzaffarpur and B.C.E., Bhagalpur, on the recommendation of the Commission, were promoted and the same was illegally denied to the petitioner and three others. It is also the case of the petitioner that other three candidates, namely, Mr. J.P. Yadav, Dr. B.P. Singh and Sri Prakash were promoted to the posts of Professor with effect from 1.2.1985 but the petitioner was once again discriminated. It is also the case of the

petitioner that his file was sent by the Department of Science and Technology vide letter No. 2096 dated 2.11.1996 to the Secretary, Bihar Public Service Commission. It is further submitted that the Bihar Public Service Commission fixed the date of meeting on 14.1.1997 but since none from the Department of Science and Technology attended the said meeting, his name could not be cleared. In the meanwhile, the Vigilance also cleared the name of the petitioner and the same was sent to Bihar Public Service Commission. When nothing happened, the petitioner was constrained to file CWJC No. 531 of 1999, which was disposed of on 2.2.2000 with a direction to the respondents to take final decision in the matter of time bound promotion.

3. For non-compliance of the aforesaid order, a contempt petition being MJC No. 252 of 2000 was filed by the petitioner, to which the respondents filed their show cause and the same was finally disposed of. In the show cause to the contempt petition, on behalf of the Bihar Public Service Commission it was stated that the Commission had asked for certain documents vide its letter dated 25.7.2000. Ultimately the contempt petition was disposed of vide order dated 15.6.2002.

4. The fact remains that the Department vide its letter No. 887 dated 23.5.2000 sent the order of the Department's Minister relating to expunction of the adverse remark and also informed that the report of two experts outside the State was not necessary for time bound promotion. The Commission, however, rejected the claim of the petitioner.

5. Counsel for the respondents has submitted that 100% final pension for the post of retired Associate Professor was received from the Department on 30.10.2002 and, accordingly, full and final pension was authorized under PPO No. 361347. It also admits that commutation of pension could not be authorized for want of administrative sanction and medical examination as per the Finance Department's Memo No. 4019/F dated 14.3.1978. However, it admits that the gratuity has not yet been sanctioned and as regard the claim of leave encashment, the same has not been received in the department.

6. In the aforesaid background and in view of disputed questions of fact and the claim thereto, it will be in the interest of justice to dispose of the writ petition, giving liberty to the petitioner to give a representation, claiming retiral dues under different heads considering the benefits of time bound promotion and the respondents are, accordingly, directed to dispose of the said representation by a speaking order within a period of two months from the date of receipt of representation.

7. This writ petition is, accordingly, disposed of without any order as to costs.