

**(2012) 06 JH CK 0065**

**In the Jharkhand High Court**

**Case No : Cont. (Civil) Case No. 244 of 2012**

Dr. Jitendra Prasad Sinha and Another

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 19-06-2012

**Acts Referred:**

**Citation :** (2013) 1 AJR 31 : (2012) 4 JCR 343 : (2012) 4 JLJR 440

**Hon'ble Judges :** Prakash Tatia, J;Jaya Roy, J

**Bench :** Division Bench

**Advocate :** S.K. Pandey, for the Appellant; Rajesh Kumar, GP-V for the State, Mr. A.K. Mehta, for the University and Mr. Amit Das, for the O.P. No. 3, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

1. By Court- Heard learned counsel for the parties. The contempt petitioners preferred writ petition being CWJC No. 3495 of 1992(R), which was decided by the learned Single Judge vide judgment dated 20th August, 1999. In the writ petition, petitioners' prayer was for direction on the respondent-State to provide grant of finance for the 2nd sanctioned post of Botany and Zoology in the College i.e., Gossner College, Ranchi, in view of the order contained in Memo no. 962 dated 26<sup>th</sup> May, 1979. The petitioners' writ petition was allowed and direction was issued to the respondents to release appropriate grant in favour of the College in question for payment of salary to the petitioners, who were holding the post sanctioned vide letter no. 338 dated 1st May, 1987. It was further directed to make payment within a period of six months from the date the post were so sanctioned i.e., 1st May, 1987. It is also ordered that on receipt of such amount, the College authorities were liable to pay salary to the incumbents who are holding such sanctioned post, including the arrears of salary from 1st May, 1987. Against the above judgment dated 20th August, 1999, the State preferred Letters Patent Appeal no. 158 of 2000(R), which was decided vide order dated 25th April, 2000. In the order dated 25th April, 2000, while dismissing the

State's Letters Patent Appeal, it has been observed that "it is not in dispute that the post as such were sanctioned and the petitioners of the writ application were appointed on the posts of Lecturers after due advertisement in the year 1980".

The petitioners' contention is that inspite of the order passed by the learned Single Judge as back as on 20th August, 1999, upheld by the Division Bench vide order dated 25th April, 2000, the petitioners have not been paid salary in compliance of the above orders. The petitioners' further contention is that College considered the case of the writ petitioners and thereafter demanded Rs. 82,79,854/- from the State Government, which is evident from the letter of the College dated 12th December, 2007 written to Director, HRD Department, Higher Education, Government of Jharkhand as well as Registrar, Ranchi University vide letter dated 31st July, 2008. However, the State Government vide letter dated 4th December, 2008 informed that the petitioners' re-fixation of the salary has not been done and, if done, the fact situation may be informed to the State Government so that matter may be considered by the State Government.

2. Be that as it may, the matter remained pending and, therefore, this contempt petition was entertained by this Court. It appears from the letters of the petitioners Annexure-9 and 9/1 dated 28th June, 2010 and 23rd July, 2010, one addressed to the Advisor of the Governor and another to Secretary, Higher Education, Human Recourses Department, Government of Jharkhand, the petitioners' contention is that they have not been paid salary of a single month. Therefore, it appears from these letters that petitioners' contention was that they have rendered their services without any salary for such long period. This Court while considering this contempt petition, when came across the stand taken by the State, University and the College, observed that if the contention of the College is correct that entire salary has been paid to the contempt petitioners then what for they have kept these petitioners in illusion that they will yet to get the balance of salary and, that too, to the tune of total of more than Rs. 82.00 lakhs for both the petitioners, the Principal of the College and the Registrar of the Ranchi University as well as State Officers were directed to remain present in court to explain their such contention that entire salary has been paid to the petitioners. Thereafter, the Principal of the College has submitted supplementary affidavit stating therein that College has already not only paid the entire due salary time to time to the contempt petitioners, but in fact some excess amount has been paid because petitioners salary has been fixed at Rs. 8000-13500/-(pre-revised scale Rs. 2200-4000) with effect from 1.5.1987. The College had been making payment of salary to the petitioners at the scale of Reader i.e., at the scale of Rs. 12000-18300/-. It is again submitted that the petitioners have been fixed at the scale of Rs. 8000-13500/-whereas petitioners had been receiving salary in excess from the College at the pay scale of Rs. 12000-18300/- and, therefore, the petitioners received excess salary which is liable to be recovered from the petitioners. Then it is submitted that now the respondents had demanded the amount of Rs. 82,79,854/- against the salary of the petitioners for the period 1987 to 2007 and in the said letter it is mentioned that the above

amount would be adjusted against the salaries of the petitioners and it is also mentioned therein that if any excess amount is there then the amount be recovered.

3. Learned counsel for the petitioners vehemently submitted that the issue has been settled and the petitioners' date of original appointment cannot be disputed. It is also submitted that the petitioners could have been fixed in the proper pay scale by the College itself and it was none of the job of the petitioners to get the amount fixed in the proper pay scale. Therefore, after more than thirty years the College want to raise the dispute with respect to the petitioners' proper pay fixation and putting them in an appropriate pay band.

4. We have considered the submissions of the learned counsel for the parties and perused the facts which are referred in detail because of the reason that we are of the considered opinion that even when petitioners were paid salary month by month as stated by the College yet this fact was not made clear and the documents also nowhere says that the College demanded reimbursement of the salary only paid to the contempt petitioners.

5. Be that as it may, now it cannot be disputed that against the salary the petitioners were getting some of the amount, quantum of which may be, according to the petitioners, less than their entitlement. Whether petitioners were getting less amount or excess amount or deserving amount was not the subject matter in the writ petitioner (CWJC No. 3495 of 1992(R)) nor the grade of the petitioners or pay scale was determined in that writ petition or in Letters Patent Appeal. Therefore, firstly this Court stands misled by the document of the College wherein it was not made clear that it is a demand for reimbursement of the salary paid to the petitioners and petitioners also tried to mislead this Court, demonstrating that they did not get any salary of any of the month for such a long period of thirty years.

6. As already observed, what is the entitlement of the contempt petitioners and in which pay scale at which time they should have been placed, is and cannot be a subject matter in the contempt petition as for that the Court has not decided in CWJC No. 3495 of 1992(R) of the writ petitioners or in the order of the Letters Patent Appeal. In view of the above reasons, the contempt petition is dismissed with liberty to the petitioners to avail any other remedy, if they have wrongly been sought to be fixed in wrong pay scale and get adjudication on that issue from the appropriate authority or the Court of law.

The notice issued to the opposite parties are discharged.