
(2019) 08 JH CK 0060
In the Jharkhand High Court
Case No : Writ Petition (S) No. 7766 of 2006

Dr. Nand Kumar Tiwari And Ors	Vs	APPELLANT
State of Jharkhand And Ors		RESPONDENT

Date of Decision : 28-08-2019

Acts Referred:

Jharkhand State Universities Act, 2000 — Section 57, 58(10)

Citation : (2019) 08 JH CK 0060

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : S.S. Choudhary, Aman Shekhar, Chandra Prabha, Arbind Kumar, Mithilish Singh

Final Decision : Disposed Off

Judgement

1. Heard Mr. S.S. Choudhary, learned counsel appearing for the petitioner, Mr. Mithilesh Singh, learned counsel for the respondent-University and Mr. Arvind Kumar, learned A.C. to S.C.-I appearing for the State of Jharkhand.

2. At the outset Mr. S.S. Choudhary, learned counsel for the petitioner submits that now petitioner Nos.1, 3, 4 and 5 are not interested in pursuing this matter, only petitioner No.2 is pursuing the writ petition, therefore, the writ petition is confined with regard to petitioner No.2 only.

3. The petitioner has preferred this writ petition for a direction upon the respondent authorities to promote him to the rank of Professor with effect from 1992. Further prayer is made to direct the respondent authorities to act in view of the order passed by the Hon'ble Apex Court in the case of State of Bihar Etc. Vrs. Dr. Braj Kumar Mishra & Anr. reported in (1999) 3 PLJR 197 (SC) and also in view of the order passed by this Court in W.P.(S) No.5407/2001, 4759/2001 and 4758/2001.

Mr. Choudhary, the learned counsel further submits that the petitioner was provisionally promoted by the Screening Committee of Bhagalpur University in

the year 1992 to the post of Professor and the same was notified vide Notification No.41/92 dated 03.07.1992.

He further submits that after completion of 16 years of his service the petitioner was promoted to that post of Professor and several others were also promoted to the post of Professor. He further submits that some other persons like the petitioner were reverted to the post of Reader. In view of the provision of Section 58 (10) of the University Act, the concurrence not having been obtained within six months from the commission. Similarly situated other persons have preferred several writ petitions before this Court vide W.P.(S) Nos.5407/2001, 4759/2001 and 4758/2001 in all cases, it has been held that before 28.08.1993, all the petitioners having been promoted, as such, they were entitled to receive the salary of Professor in the year 1992. He submits that in that view of the order of this Court, petitioner is also entitled for the salary of Professor. He submits that the scale of the Professor has been restored to several persons, namely Dr. S.K. Ghosh, Department of Psychology, S.P. College, Dumka, Dr. S.K. Singh, Retd. Professor of Hindi, P.G. Centre, Dumka, and Budhinath Jha, Retd. Professor of Political Science, P.G. Centre, Dumka.

By referring these names Mr. Choudhary, learned counsel makes out a case of discrimination.

On the other hand, Mr. Mithilesh Singh, appearing for the respondent-University submits that the screening committee has not recommended the case of the petitioner for promotion to the post of Professor. Referring to the Annexure-A to the counter affidavit filed by the Jharkhand State Public Service Commission, it is submitted that the name of the petitioner is not there. He submits that in view of the Section 57 of the Jharkhand State University Act, no promotion can be extended without recommendation of the Jharkhand Public Service Commission.

4. Be that as it may, this Court finds that the order passed by this Court in the cases of the other similarly situated persons, they have been provided the benefit. In that view of the matter, the petitioner cannot be allowed to be discriminated by the respondent-University.

Accordingly the petitioner is directed to file a fresh representation before respondent No.3,- the Vice Chancellor, Sidhu Kanu Murmu University, Dumka, who will consider the claim of the petitioner in the light of the observation and will pass speaking order in this regard within a period of six weeks from the date of receipt/production of a copy of this order.

5. In view thereof, this writ petition stands disposed of with the above directions and observations.