
(2013) 08 JH CK 0043

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2906 of 2010

Dr. (Prof) Ashok Kumar Jha

APPELLANT

Vs

The State of Jharkhand and others

RESPONDENT

Date of Decision : 07-08-2013

Acts Referred:

Citation : (2013) 08 JH CK 0043

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Anoop Kr. Mehta and Mr. Altaf Hussain, for the Appellant; K.M. Verma, GP-1 and Mr. Ashok Kr. Sinha, JC to GP-1 for the State and Mr. J.P. Jha and Mr. Mithilesh Singh, Advocate for the University, for the Respondent

Final Decision : Disposed Off

Judgement

1. Heard counsel for the parties. The petitioner had approached this Court with a grievance that his claim for salary in the pay scale of University Professor in accordance with section 70(A) of the Jharkhand State Universities Act and other claims of arrears of salary in the said scale, have been illegally rejected.

2. According to the petitioner, he is entitled to the difference of salary in the scale of Professor under revised U.G.C. pay scale with effect from 9th January 2001 till date as he has been paid his salary in the scale of Junior Reader from May 2003 on account of illegal pay fixation made by the respondent Human Resources Development Department. By the order contained at Annexure-8 dated 2nd September 2009 passed by the Secretary, Human Resources Development Department, Government of Jharkhand, the said claim was rejected on the only issue that the petitioner's substantive date of appointment in the University was 28th February 1982 and not 17th August 1979. According to the respondent State, any benefits of salary and other promotional avenues were to be reckoned with effect from 28th February 1982 as his substantive date of appointment.

3. Much water has flown down since then and the issue has been considered and decided by this Court in the case of Dr. (Mrs.) Rafat Ara Vs. Ranchi University and Others, and which has been upheld by the Division Bench of this Court in the case of Dr. Anant Kumar Akhouri Vs. The Vice Chancellor, Ranchi University, Ranchi and Others, The learned Division Bench of this Court in the case of Dr. Anant Kumar Akhouri (Supra) has held that the period of temporary service of such employee/lecturer of the University is to be reckoned for ascertaining the length of service of the appointee if he continues in service till regularization. Learned counsel for the petitioner also informs that SLP being SLP (Civil) CC No. 11707/12 preferred by the respondent State of Jharkhand before the Hon''ble Supreme Court, has also been dismissed. Thereafter, the respondent State has also reconsidered its stand and issued a communication dated 2nd April 2013 to all Universities within the State of Jharkhand to act in terms of the judgment rendered in the case of Dr. Anant Kumar Akhouri (Supra) which was upheld upto the Hon''ble Supreme Court.

4. In the present case, the claim of the petitioner was that his original date of appointment as a temporary lecturer in the erstwhile Bhagalpur University was 17th August 1979 and thereafter, he was confirmed in service with effect from 28th February 1982. The respondent University has also in fact reckoned his date of appointment as 17th August 1979 and sent all necessary requisition to the State for release of adequate funds for payment of arrears of salary of the petitioner in the scale of Professor as per revised U.G.C. scale.

5. Counsel for the State has produced a letter dated 2nd April 2013 which is referred to herein above, is being kept on record. Learned counsel for the State submits that in view of the judgment rendered in the case of Dr. Anant Kumar Akhouri (Supra), now the respondent department is also bound to give effect to the ratio laid down in the said judgment. Therefore, appropriate decision would be taken at the level of the department within a short time. Having heard learned counsel for the parties and having gone through the relevant materials on record, it appears that the controversy is no longer res-integra. The initial date of appointment of the petitioner has been treated by the University as 17th August 1979 and necessary requisition have been made to the respondent State for release of adequate funds for payment of arrears of salary to the petitioner in the scale of Professor. Given the stand taken by the respondent State as per its letter dated 2nd April 2013 in conformity with the judgment rendered in the case of Dr. Anant Kumar Akhouri, now, it is proper to direct the respondent State to take an appropriate decision in the matter of fixation of pay of the petitioner in the scale of Professor and release the arrears of salary in the said scale for disbursement within a period of ten weeks from the date of receipt of a copy of this order.

The writ petition is disposed of in the aforesaid terms.