
(2003) 01 JH CK 0089

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2845 of 2001

Dr. Sri Krishna Pandey

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 21-01-2003

Acts Referred:

Citation : (2003) 2 JCR 285

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : A. Allam, G.A and Aandhya Singh, J.C. to A. Allam, M.S. Anwar and A Ahmad, for the Appellant; A. Allam, G.A and Aandhya Singh, J.C to A. Allam, for the Respondent

Judgement

Tapen Sen, J.—Heard Mr. M.S. Anwar, learned counsel for the petitioner and Mr. A. Allam, learned counsel for the State of Bihar, Mr. A. Allam, J.C. to G.A. represents the State of Jharkhand.

2. Mr. M.S. Anwar, learned counsel for the petitioner submitted that at the time of filing of the writ petition, he had indicated at paragraph 16 of the writ petition that the petitioner had to retire in the month of February, 2002, meaning thereby from the State of Jharkhand. He has further submitted that the college where the petitioner was working was an affiliated college of the University but it is aided by the Government. Mr. M.S. Anwar also submits that after superannuation, he has received only the Provident Fund amount and a portion of the Gratuity. He submits that he is entitled to the difference of salary on the post of Reader with effect from 1.2.1985 to 28.2.1999 and from 14.6.1999 till the date of retirement i.e. 28.2.2002 in the scale of University Professor. According to the learned counsel for the petitioner, he was also given promotion on the post of University Professor and therefore, he is entitled to the aforesaid difference of salary in the post of University Professor also.

3. According to the respondent No. 2 (The Director (Higher Education), Human Resources Development, Government of Jharkhand) who has filed a counter

affidavit, the State Government grants subsidy to the University for payment of salary to different affiliated colleges which are minority institutions and are run by a Governing Body/Managing Committee. They have further submitted that the petitioner is claiming difference of salary prior to the creation of the State of Jharkhand and therefore, whatever payment is to be made is to be made by the Government of Bihar specially more so in view of the fact that the assets and liabilities between the two states have not yet been finalized.

4. The aforementioned last submission of Mr. A. Allam, learned counsel for the respondent is rejected outright in as much as the petitioner retired after 15.11.2000 i.e. after the appointed day from a college which is situated within the territory of the State of Jharkhand. The Bihar Reorganization Act, 2000 has already taken care and has protected the interest of the State of Jharkhand in view of Clause 3 to the VIII Schedule. In other words, the State of Jharkhand can very well claim the difference upon finalization of the matter relating to assets and liabilities. However, such an act should not come in the way of a pensioner in receiving his pension and he should not be made to await for such adjustment. Consequently, the State of Jharkhand shall do the needful and if it feels that it is the State of Bihar which should have borne the liability, then it may make necessary claims, but after making the payments.

5. Consequently, the petitioner is directed to approach the Secretary, Human Resources Development Department, Government of Jharkhand and file a representation. If such a representation is filed then the authority shall look into the matter and do the needful after taking into consideration the observations made above. It is expected that the authorities shall dispose off the matter within a period of six weeks from the date of receipt of copy of this order along with the representation.

6. With these observations and directions, this writ petition stands disposed off.