

(2006) 02 JH CK 0047

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3115 of 2005

Dr. Subhash Kumar

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 27-02-2006

Acts Referred:

Bihar Reorganisation Act, 2000 — Section 72(2)

Citation : (2006) 2 JCR 372

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : A. Allam, Vandana Singh, for the Appellant; R.N. Sahay, Sr. SC II and Rabindra Prasad, JC to Sr. SC II, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—The writ petition was preferred by the petitioner for direction on the respondents to allow him to continue and complete his study in Master of Veterinary Science (hereinafter referred to as M.V.Sc.) at Birsa Agricultural University, Ranchi (hereinafter referred to as the University), where he has already completed much more than one year study.

2. The petitioner was in the services of erstwhile State of Bihar in its Animal Husbandry and Fishery Department since 1989. He requested the Department for No Objection for pursuing study of M.V.Sc. Course. Persons junior to him were given charge of the higher post but he was denied to hold specialized post having no specialized degree. Earlier he filed a writ petition, W.P.(S) 1804 of 2002 before this Court against a Notification of transfer dated 29th June 2001 and alleged that juniors have been transferred against higher post, a Bench of this Court, vide its order dated 5th September, 2002 disposed of the writ petition by referring to an order dated 22nd February, 2002/6th March, 2002, wherein the authorities mentioned that the petitioner holds degree in Veterinary Science and Animal Husbandry, but does not hold any specialized degree for posting against any higher specialized post and his claim was rejected by the Secretary.

3. The aforesaid fact has been highlighted by the petitioner to show why he was

all the time eager for higher study of M.V.Sc. Course, otherwise he cannot claim for the higher posts as was given to his juniors.

4. After reorganisation of the State, the petitioner having been posted within the territory of Jharkhand, provisionally he was allocated the State of Jharkhand. He applied for No Objection Certificate for Post Graduate study in M.V.Sc. Course but having not been granted, a writ petition W.P.(S) No. 6506 of 2002 was preferred by him for direction on the respondents to grant him No Objection to enable him to get admission in M.V.Sc. Course in the University for the Session 2002-03. By interim "order dated 3rd December, 2002, he was allowed to get provisional admission in the M.V.Sc. Course, subject to grant of No Objection Certificate. The State of Jharkhand also granted No Objection Certificate by letter dated 7th December, 2002. The aforesaid fact was noticed by the Court while disposed of the writ petition on 17th February, 2003 and in respect to study leave, the competent authority was allowed to grant such leave, there being a provision. No provision having been brought on record, the Court did not choose to pass any order for payment of salary during the study leave, nor any relief was granted in respect to sponsorship or full salary for the period of study.

5. After the disposal of the said case, the petitioner was finally allocated the State of Bihar u/s 72(2) of the Bihar Reorganisation Act, 2000. He joined the services under the State of Bihar, but was not allowed study leave to complete the study for which permission had already been granted by the Government of Jharkhand. The aforesaid fact having taken notice of, this Court vide order dated 6th July, 2005 allowed the State of Bihar to accept the joining of petitioner and by order dated 28th July, 2005, the petitioner was allowed to continue his study under the University. By subsequent order dated 25th August, 2005, the petitioner was allowed to give a fresh joining at Patna (Headquarters) and to return Ranchi to attend his study in the University.

6. On 26th October, 2005, the petitioner informed that he will not be completing his course at Ranchi and prayed for salary but such prayer for salary cannot be accepted and no such relief can be granted, the same relief for grant of full salary during the period of study having been refused by this Court by order dated 17th February, 2003, passed in W.P.(S) No. 6506 of 2002 which was preferred by this petitioner.

7. So far as study leave is concerned the petitioner having been granted study leave by the State of Jharkhand and he having taken admission in the University, he should have been allowed to continue his study by the State of Bihar even after final allocation of cadre. The petitioner having now continued with the study, the State of Bihar is directed to treat the period as study leave.

8. So far as salary of the said period is concerned it will be open to the competent authority to determine as to how the period of study leave to be counted for payment of salary and other dues.

9. The writ petition stands disposed of with the aforesaid observations.