

(2016) 11 JH CK 0052
In the Jharkhand High Court
Case No : Writ Petition (S) No. 6415 of 2016

Francis Xavier Ekka

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 17-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 2 JCR 544

Hon'ble Judges : Mr. Pramath Patnaik, J.

Bench : Single Bench

Advocate : Mr. Madan Mohan Pan, Advocate, for the Petitioners; M/s. C. Prabha, S.C. IV and Vishal Kr. Rai, J.C to S.C. IV, for the Respondents

Final Decision : Disposed Off

Judgement

Mr. Pramath Patnaik, J.— Heard learned counsel for the parties.

Learned counsel for the petitioners submitted that the petitioners are retired teachers of minority Primary/High School, details of the individual are being shown in the chart given below:

Sl No.

Name of the petitioner/Teacher

Name of the School

Date of appointment

Date of Retirement

1.

Francis Xavier Ekka

St. Ignatius High School, Gumla

17.7.1983

31.10.2011

2.

Smt. Radha Lal

St. Ignatius High School, Gumla

31.12.1982

30.09.2008

It is the contention of the petitioners that the school in question is Government Aided Minority Schools and all expenses towards payment of salary and retirement benefits of the school employees is funded by the State Government from the public exchequer. The petitioners are also getting pension on the basis of the pension payment order issued by the office of the Accountant General.

2. In the present writ application, the grievance of the petitioners is in relation to non-payment of leave encashment amount on the earned leave outstanding against them. They have also stated that other post retiral dues have already been paid and that salary and post retirement benefit have been paid out of grant-in-aid provided by the State Government.

3. Mr. Madan Mohan Pan, learned counsel for the petitioners submits that though, the claim of the petitioners was resisted earlier by the respondent-State Government, but the issue has now been settled in view of the judgment rendered by the learned Division Bench of this Court in the case of Mariyam Tirkey v. The State of Jharkhand & others in W.P.(S) No. 506 of 2013 and analogous cases dated 3rd January, 2014 which has also been reported in 2014 (1) JBCJ 465 and now upheld up to the Hon''ble Supreme Court vide judgment dated 15.12.2014 passed in Special Leave to Appeal (C) No(s) 20606-20607/2014. According to the petitioners, the writ petition may be disposed of in view of the judgment rendered as aforesaid by the learned Division Bench and affirmed up to the Hon''ble Supreme Court, by directing the respondents to pay the earned leave encashment amount to the petitioners.

4. Learned counsel appearing for the Respondent-State does not dispute that the aforesaid issue relating to admissibility of the earned leave encashment amount to the teachers of Non-Government/Aided Minority School has now been decided by the judgment rendered in the case of Mariyam Tirkey (Supra) and affirmed up to the Hon''ble Supreme Court.

5. Having heard learned counsel for the parties, in such circumstances, the writ petition is being disposed of by directing the respondent no. 3, to take a decision in the matter of grant of leave encashment amount to the petitioners after due scrutiny of their relevant service records and in view of the judgment rendered in the case of Mariyam Tirkey (Supra) within a period of ten weeks from the date of

receipt of a copy of this order along with the representation on behalf of the petitioners.

6. The writ petition is accordingly disposed of.