
(2017) 01 JH CK 0019
In the Jharkhand High Court
Case No : Writ Petition (S) No. 2875 of 2008

Gauri Shankar Singh

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 23-01-2017

Acts Referred:

Citation : (2017) 2 JBCJ 374

Hon'ble Judges : Mr. Dr. S.N. Pathak, J.

Bench : Single Bench

Advocate : Mr. Altaf Hussain, Advocate, for the Petitioner; Mr. Sarvendra Kumar, J.C to S.C. L&C Mr. Ashok Kumar Singh, J.C to S.C. L&C, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Dr. S.N. Pathak, J.—Heard the parties.

2. Prayer has been made for payment of due leave encashment amount of the petitioners in case of petitioner no.1 Rs.1,40,040/, petitioner no.2 Rs.79,640/ and petitioner no.3 Rs.1,00,040/ along with interest as the petitioners are legally entitled to get the aforesaid amount.

3. From the factual matrix of the case, it transpires that petitioners was appointed on the post of Assistant Teacher in Parasnath Digambar Jain School, Isri Bazar, District Giridih which is a recognised minority school and aided by the State Government. The State Government pays the deficit for payment of salary, pension and other admissible dues by way of grants. It is further stated that petitioner no.1 retired from his service as Headmaster of the aforesaid Parasnath Digambar Jain School, Isri Bazar, District Giridih, petitioner no.2 Nateshwar Prasad Mishra appointed on 01.12.1961 and retired on 30.11.2001 and petitioner no.3 Chandeshwar Pd. Singh was appointed on 01.02.1974 and retired on 30.09.2001. It is stated that payment of petitioners" salary were made from the officers of the State Government and the petitioners have already been paid their gratuity, provident fund and group insurance and also they are getting pension

but their due amount of leave encashment have not yet been paid.

4. Learned counsel for the petitioner submitted that the claim of the individual petitioner 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 & Ors. v. The State of Jharkhand, & Ors. passed 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) 2060620607/ 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.

5. A counter affidavit has been filed by the respondents though they have denied the claim of the petitioner in view of the judgment of this Court passed in the case of Paul Mangra Kujur v. State of Jharkhand, reported in 2005(IV) JLJR 135 in which it has been held that teaching and non teaching employees of Non Government Aided Schools or Minority Primary/Middle Schools are not entitled for leave encashment but very candidly learned counsel for the 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.

6. Having gone through the rival submissions of the parties, I am of the considered view that the issue is now no more res integra in view of the fact that the issue has been set at rest by the Hon"ble Apex Court. The respondent no.3 Director, Secondary Education, Human Resources Development Department, Government of Jharkhand, Ranchi is directed to take a decision regarding payment of leave encashment amount to the individual petitioner after due scrutiny of the relevant service records of the individual petitioner and in view of the judgment rendered in the case of Mariyam Tirkey (supra) within a period of 12 weeks from the date of receipt of copy of this order along with representation filed by the individual petitioner. In view of the observations made above and in view of the relevant guidelines and settled principles of law, the writ petition is disposed of.