

(2006) 07 JH CK 0004
In the Jharkhand High Court
Case No : C.W.J.C. No. 2120 of 1997 (R)

Gayasuddin Ahmad

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 12-07-2006

Acts Referred:

Citation : (2006) 4 JCR 164

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : A.K. Srivastava, for the Appellant; H.K. Singh SC I, for the Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—In this writ application the prayer of the petitioner is two fold, firstly that he is entitled to get payment of salary for the period 1.2.1992 to 31.1.1994, the period according to the petitioner, he continued to be in service even after his superannuation as an Assistant Teacher. The second prayer of the petitioner is that he be paid the interest @25% per annum since the retrial dues were paid to him belatedly.

2. It is stated that the petitioner retired from the service as an Assistant Teacher on 31.1.1992 from Chitarpur Government School in the District of Hazaribagh. He filed a Writ Application before this Court being CWJC No. 329 of 1992 (R) praying therein to allow him to continue in the service up to the age of 60 years in view of the decision/resolution of the Government of Bihar contained in letter No. 0308/89/ 2412 Patna dated 29.10.1990 whereby the age of superannuation of the teachers working in Government Elementary/Primary Schools was enhanced from 58 years to 60 years i.e. Annexure-1 to this writ petition. The writ application was disposed by this Court by order dated 11.2.1992 (Annexure-2 to this writ application) whereby the State was directed to consider the case of the petitioner in light of the Circular issued by the Government of Bihar and also the judgment rendered by the Patna High Court in CWJC No. 1999

of 1990.

3. There is no dispute of the fact that the matter ultimately went to the Supreme Court and the Supreme Court by its order as contained in Annexure-6 has held that the teachers who already retired prior to the filing of this writ application were not entitled to get any benefit of the Circular issued by the Government as contained in Annexure-1 to the writ application. So far as the teachers who were continuing in service during the pendency of the writ application, their cases were remanded back by the Supreme Court.

4. In the present case therefore, there is no dispute that the petitioner had already retired from service after completing the age of 58 years on 31.1.1992. Therefore, even according to the order of Supreme Court he would not get the benefit of the Circular of the State Government i.e. Annexure-1.

5. In this view of the matter even if as claimed by the petitioner that he continued in service as Assistant Teacher and worked from 1.2.1992 to 31.1.1994, the same cannot confer any legal right to the petitioner. There is nothing on the record to show that the State Government had passed any order in favour of the petitioner that he would retire at the age of 60 years and therefore, even if the petitioner continued in service after his retirement i.e. from 1.2.1992 to 31.1.1994 as claimed by him, though it has been denied by the respondents, in my view, the continuation in service did not confer any legal right to the petitioner. Therefore, the claim of salary for the said period cannot be allowed.

6. So far the claim for interest for the delayed payment on retrial dues is concerned, it is said that the petitioner retired on 31.1.1992 and he received the residues belatedly. If that be so, in my view, the petitioner should make a representation to the Department with regard to his claim for interest. If so advised, the petitioner may file representation claiming interest for the delayed payment of retrial dues to the Director, Primary Education, Government of Jharkhand, Ranchi within a period of two weeks and if such a representation is filed by the petitioner, the same shall be disposed of in accordance with law by an appropriate reasoned order within eight weeks thereafter.

7. With the aforesaid observations and direction, this writ application is dismissed. Appeal dismissed.