

(2008) 10 JH CK 0059

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4581 of 2004

Hari Kishore Chaudhary

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-10-2008

Acts Referred:

Citation : (2008) 119 FLR 856

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : R.S. Majumdar, for the Appellant; H.K. Singh, S.C.-I, for the Respondent

Judgement

R.R. Prasad, J.—Heard the parties.

2. Learned Counsel appearing for the Petitioner submits that the Petitioner was initially appointed as "Assistant Teacher" on 25.8.1958 in the Primary School at Guladdih within the district of Deoghar. Subsequently, when the Petitioner acquired requisite qualification, he was promoted to the post of "Head Master" vide order as contained in Memo No. 1149 dated 18.2.1963 and was posted in the Middle School at Bansbutiya, but the Petitioner was never given scale of Head Master in spite of several representations being made by the Petitioner in this regard and ultimately the Petitioner retired on 31.7.1996 on his superannuation, therefore, there was no option left with the Petitioner, but to file this writ petition, for a direction to the Respondents concerned to give Scale of the post of "Head Master" to the Petitioner w.e.f. 18.2.1963 and also all the consequential benefits such as fixation of Pension, Gratuity etc. over the said Scale.

3. However, learned Counsel appearing for the State submits that though under a circular dated 10.7.1969, inquiry is to be made as to whether a person, who has been appointed on the post of "Head Master" does have requisite qualification or not and perhaps as the inquiry could not be made in this respect, the Petitioner may not have been given Scale of Head Master.

4. As against this, learned Counsel appearing for the Petitioner submits that the inquiry is to be made with respect to the appointment made on the post of Head Master subsequent to 10.7.1969, but the Petitioner was working on the post of "Head Master" w.e.f. 18.2.1963 for which the Petitioner was having requisite qualification, which fact has never been denied by the State in his counter affidavit and as such the Petitioner is entitled to Scale of Head Master.

5. Admittedly, the Petitioner was having requisite qualification for promotion to the post of Head Master, on the date, when he was appointed on that post, but the Scale of "Head Master" was never paid to the Petitioner, though there has been no dispute that the Petitioner was not having requisite qualification of being promoted to the post of "Head Master" nor there has been any reason whatsoever for denying the claim of the Petitioner.

6. In that view of the matter, this writ petition is disposed of with a direction to the Petitioner to file representation alongwith a copy of this order before the Respondent No. 3, District Superintendent of Education, Deoghar with respect to grant of Scale of the Head Master w.e.f. 18.2.1963 and also taking measures for all the consequential benefits such as fixation of Pension, Gratuity etc. on the said Scale and the Respondent No. 3-District Superintendent of Education, Deoghar, on receiving the said representation, would take decision in the matter positively, within one month from the date of receipt of representation.