
(2012) 06 JH CK 0052

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5572 of 2008

Janardan Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-06-2012

Acts Referred:

Citation : (2012) 3 JCR 667

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Dhananjay Kumar Dubey, for the Appellant; Jay Shanker Tiwary, J.C. to S.C.I., for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh

1. Heard learned counsel for the petitioner as well as learned counsel for the respondents-State. Learned counsel for the petitioner at the outset seeks to confine his prayer to para 1 (b) of the writ application by which a direction has been sought for upon the respondents for payment of salary to the petitioner w.e.f. January, 2000 till date on the basis of duty performed by the petitioner as a Teacher in Primary School, Pokhar, Barhet, District Sahebganj also in view of the similar order passed in other case.

2. From the averments made in the writ petition itself as well as counter affidavit of the respondents, it is apparent that the writ petitioner had earlier moved this Court in W.P.(S) No. 6230 of 2005 for a similar direction upon the respondents to pay him salary due since January, 2000. This Court after taking into account that the petitioner's services was terminated in December, 1984 and writ petition against the same was preferred being C.W.J.C. No. 89 of 1985, facts of which were not brought on record in clear terms in the said writ petition, refused to give any finding one way or other. The petitioner, however, was given a liberty to approach the competent authority, if so advised. Subsequently, in the year 2006

the writ petitioner preferred writ petition being W.P.(S) No. 4011 of 2006 with the same prayer for payment of his salary since January, 2000 onwards claiming that he was regularly working as an Assistant Teacher in Primary School, Dudhir Pokhar, Barhet, District Sahebganj. By order dated 28th August, 2006 the District Superintendent of Education, Sahebganj was directed to consider the petitioner's representation and pass appropriate order, in accordance with law, relating to his aforesaid claim and if the petitioner's claim was found genuine, it was observed that the monetary benefits must be paid to him within the stipulated time, along with interest. Pursuant thereto the representation of the petitioner was decided by the District Superintendent of Education vide office order dated 23rd March, 2007 contained in Memo No. 11 annexed as Annexure-11 to the writ application.

3. From perusal of the order dated 23rd March, 2007 passed by the D. S.E., Sahebganj, which has been impugned in this writ petition in para No. 1, it is apparent that the petitioner's services were terminated on 5th December, 1984 and the writ petition challenging the same being C.W.J.C. No. 89 of 1985 was dismissed upholding the order of termination vide order dated 21st February, 1995. Taking into account this fact as well as other grounds that the petitioner's services had been terminated and there was no legal validity to his claim, the representation of the petitioner for payment of salary was rejected. Interestingly, the petitioner has, during the course of argument, chosen not to press the challenge to the impugned order as contained in Annexure-11. On the other hand, it is submitted on the part of the petitioner that from the various documents annexed in the writ petition, it is apparent that the work has taken from the petitioner continuously by the respondents.

4. The respondents in their submission and by way of averments made in the counter affidavit, have justified the impugned order as well as contested the claim for payment of salary of the petitioner on the aforesaid ground. It has also been submitted that the petitioner has suppressed the fact relating to termination of his service and the fact that his writ petition against the said termination order was dismissed.

5. From the aforesaid facts and circumstances, it is clear that the petitioner's termination from service has been upheld by the order of the Patna High Court in C.W.J.C. No. 89 of 1985. Thereafter twice he moved this Court for the same relief seeking payment of salary for the period 2000 onwards. Upon direction of this Court, the D.S.E. Sahebganj passed an order as contained in Annexure-11 dated 23rd March, 2007 whereby representation of the petitioner was rejected by passing a reasoned speaking order as discussed hereinabove. The petitioner has not assailed the said order now and he is confining his prayer for payment of salary for the period 2000 onwards. In view of the aforesaid facts and circumstances there is no legal right in favour of the petitioner against the respondents-State for seeking a direction for payment of salary as alleged by him, I do not find any merit in this writ petition and it is accordingly dismissed.