
(2016) 07 JH CK 0045
In the Jharkhand High Court
Case No : W.P.(S) No. 2514 of 2013

Katrina Tirkey

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 19-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 JCR 429

Hon'ble Judges : Mr. Ananda Sen, J.

Bench : Single Bench

Advocate : Mr. A.K. Das, Advocate, for the Petitioner; Mr. Anup Kumar Agrawal, J.C. to S.C.-V, for the Respondent-State

Final Decision : Disposed Off

Judgement

Mr. Ananda Sen, J.—The husband of the petitioner was a teacher in Jai Kishan High School, Manjhatoli, Gumla. The said school applied for grant of minority status and the same was granted to them on 28.9.2007. Letter dated 18.04.1980, written by the Secretary to the District Superintendent of Education, Ranchi, suggests that a direction was given to make payment of salary to the teachers of Jai Kishan High School, Manjhatoli, Ranchi (now Gumla) from the District Education Fund. The husband of the petitioner received salary from the said fund but his salary was stopped from February 1999 to April 2000. From May 2000 to January 2003, he was paid the salary but again the same was stopped from February 2003 till the date of her retirement i.e. 31.01.2005. Thus, the petitioner is claiming salary for the period from February 1999 to April 2000 and from February 2003 to January 2005.

2. Heard the parties.

3. The counsel for the petitioner submits that her husband was entitled to get salary and other death cum-retiral benefits as the same have already been granted to other teachers of the school, but the claim of the petitioner was

denied on the ground that minority status of Jai Kishan High School, Manjhatoli, Gumla was granted only on 28.9.2007 i.e. after the husband of the petitioner superannuated. It is further submitted that by virtue of letter dated 18.4.1980, the salary of the husband of the petitioner was paid but the same was stopped from February 1999 to April 2000 and from February 2003 to January 2005. Counsel for the petitioner also submits that it is admitted case that the said school was granted minority status on 28.9.2007, thus the amount could have been disbursed in terms of letter dated 18.4.1980. It is submitted that from letter dated 18.4.1980 issued by the Secretary, Govt. of Bihar in respect of Jai Kishan High School, Manjhatoli, Gumla, it was opined that the salary of the teachers of the said school can be disbursed from the District Education Fund. Counsel for the petitioner also submits that after issuance of the said letter, the husband of the petitioner was paid salary regularly till January 1999.

4. In counter-affidavit, the State has admitted that as per direction of the Secretary, when the said school was not declared as minority institution, the payment of the salary was made to the teaching and non-teaching staff from the District Education Fund. Not only this, the affidavit also suggests that the persons who had superannuated, were also given all pensionary benefits by the State. It is also admitted by the State that by virtue of letter dated 18.4.1980, it was decided to make payment to the teachers of this particular school from the District Education Fund. The said letter also suggests that the payment from such fund will not prejudice the said school to be declared as minority institution.

5. Thus, from perusal of letter dated 18.4.1980 and the counteraffidavit, filed by the State, it is apparent that prior to declaration of the said institution as a "minority institution", salary was paid to the employees of the said school by the Government. Several such instances have also been given in the counter-affidavit. Thus when the State has already paid the salary and post retiral benefits to other teachers taking shelter of letter dated 18.4.1980, I find no reason as to why the husband of the petitioner was deprived, by not granting the said benefits. It is also admitted that the teachers superannuated prior to 28.9.2007 were also being granted the said benefit by the State.

6. Since the husband of the petitioner also superannuated prior to 28.9.2007, he should have been paid the salary by the State in terms of letter dated 18.4.1980 as granted to others. Thus, the concerned respondent should have considered the claim of the petitioner for payment of salary in terms of letter dated 18.4.1980 and also after taking into consideration that similarly situated teachers were paid salary as well as post retiral benefit, which has been admitted by the State in para 8 of the counter-affidavit.

7. I, therefore, direct respondent No. 3 to take a decision in respect of payment of salary and other benefits which accrued to the husband of the petitioner taking into consideration the observation made above, within a period of eight weeks from the date of receipt of a copy of this order.

8. This writ petition stands disposed of, accordingly.