
(2011) 06 JH CK 0152

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4481 of 2009

Kiran Bala Sinha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 21-06-2011

Acts Referred:

Citation : (2011) 3 JCR 480

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

N.N. Tiwari, J.—In this writ petition, the petitioner has prayed for a direction on the respondents to grant seniority with consequential benefit and annual increments in salary w.e.f. 1987.

2. According to the petitioner, she was empanelled for appointment in 1987. The other candidates, who were also in the same panel were appointed in 1987, but the petitioner was not appointed. She had filed writ application being C.W.J.C. No. 847 of 1992(R) before the Patna High Court, Ranchi Bench (as then was). The said writ application was allowed directing the respondents to issue appointment letter to the petitioner. The respondents thereafter issued appointment letter on 1.5.1993. The petitioner's service was not wanted with effect from the date on which the other candidates in the same panel were appointed in the year 1987. The petitioner protested against the said discrimination and subsequently filed another writ application being C.W.J.C. No. 3203 of 1997(R) before the Patna High Court. Ranchi Bench (as then was), praying for a direction to restore her seniority w.e.f. 1987 and fix her pay with effect from that date. The said writ petition was allowed directing the respondents to consider the petitioner's representation and pass appropriate order. The respondents, thereafter, considered the petitioner's representation and passed order allowing her notional seniority to reckon from 1987. However, it was specifically mentioned that the same will not have any effect on annual

increments or for payment of salary and the notional seniority shall be counted only for the purpose of considering promotion of the candidates of 1987 panel. The said order was further modified by the respondents to the extent that the petitioner shall be entitled to get benefit at par with Om Prakash Sah and Sachidanand Sah, Assistant Teachers, who were also in the panel of 1987, but were appointed on subsequent dates.

3. Learned counsel, appearing on behalf of the petitioner, submitted that the aforesaid Assistant Teachers-Om Prakash Sah and Sachidanand Sah had got the benefit of fixation of pay and annual increments w.e.f. 1987 the year in which the other candidates of the panel were appointed. The petitioner is thus, entitled to get the said benefit. Though the said claim is pending before the respondents, they have neither denied nor any order has been passed accepting the said claim of the petitioner.

4. Learned J.C. To G.P.II, appearing on behalf of the respondents, submitted that the factual position stated by the petitioner has not been disputed by them. It has been stated that though the petitioner along with Girish Chandra Singh, Om Prakash Sah and Sachidanand Sah were in the same panel of 1987, their dates of appointment are different.

5. I have heard learned counsel for the parties and perused the facts and materials on record. It is an admitted fact that the petitioner was empanelled for appointment in the year 1987 along with others. However, letter of appointment was not issued to her while other similarly situated persons were appointed w.e.f. 1.9.1993 by the order of this Court. The competent authority had issued order that she shall be equally treated with the others whose names appeared in 1987 panel, but were subsequently appointed. An order to that respect was also passed by the Director, Primary Education, Human Resources Department, Jharkhand, Ranchi as far back as on 6.3.2000. But inspite of that petitioner's seniority has not been restored w.e.f. 1987 and annual increments have not been granted on that basis. The respondents have, thus, already admitted that the petitioner is entitled to get seniority as well as annual increments in salary reckoning from 1987. No reason has been assigned either by filing counter-affidavit or any order passed by the respondents for not placing her at the appropriate place in the seniority list and for not giving annual increments in salary on the basis of the said decision.

6. For the reasons aforesaid, this writ petition is allowed. The respondents are directed to place the petitioner the appropriate place in the seniority list according to their earlier decision to treat her at par with Ajay Kant Jha and another similarly situated Assistant Teachers and issue order to that effect and release the benefit of annual increments, as has been done in the cases of other similarly situated persons. However, it has been clearly said on behalf of the petitioner that she shall not claim any salary for the period from 1987 till the date of actual appointment and the said period shall be counted only for the purpose of fixing seniority and for fixing annual increment in salary, as has been

earlier allowed by the respondents by virtue of Annexure-5.