
(2010) 09 JH CK 0046
In the Jharkhand High Court
Case No : Cont. Case (Civil) No. 166 of 2009

Kisto Ram

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-09-2010

Acts Referred:

Citation : (2010) 09 JH CK 0046

Hon'ble Judges : R.R. Prasad, J

Bench : Single Bench

Judgement

R.R. Prasad, J.—When the Petitioner, a retired employee of the Deoghar District Board, was not given the scale of senior selection grade and also the arrears of salary and pension in terms of the recommendation of 6th Pay Revision Committee, the Petitioner filed writ application.

2. In that writ application, the stand which was taken by the District Board was that financial position of Zilla Parishad is so weak that it is unable to pay the salary or other allowances in terms of the recommendation of the 6th Pay Revision Committee.

3. Further stand taken was that the authority of the Zilla Parishad has been warned by the State authority not to give any benefit in terms of the recommendation of the 6th Pay Revision Committee unless it gets approval of the State Government and that the State Government has not accorded approval of the proposal sent to the Government.

4. However, this Court finding the objection untenable disposed of the application by passing the following order :

Accordingly, Respondent No. 4 is again directed to decide the matter relating to payment of retiral dues in terms of the recommendation made by the 6th Pay Revision Committee and also the matter relating to grant of Senior Selection Grade in terms of the Finance Department (Government of Bihar) Circular No.

10770 dated 30.12.1981 afresh in accordance with law within a period of three months from the date of receipt/production of a copy of this order, failing which the Petitioner would be entitled to get interest @ 6% over the amount which is due to be paid by the authority concerned.

5. When, according to the Petitioner, the said order was not complied with, this contempt case was filed for initiation of a contempt proceeding.

6. A show cause has been filed on behalf of the opposite parties stating therein that pursuant to the direction of this Court, the representation of the Petitioner was disposed of, vide order No. 88 dated 13.5.2009 (Annexure A) whereby the claim of the Petitioner regarding payment of retiral dues in terms of the recommendation of the 6th Pay Commission Report was rejected whereas 2nd claim of the Petitioner with respect to the grant of senior selection grade was found to be justified and, accordingly, payment on that account has already been made.

7. Learned Counsel appearing for the Petitioner submits that the same ground which has been earlier taken of financial crunch has been taken again for not making payment of retiral dues in terms of the recommendation of the 6th Pay Revision Committee which this Court earlier while disposing of the writ application found it to be untenable and therefore, the Respondent No. 4 can be said to have disobeyed the order passed by this Court and is liable to be proceeded with contempt proceeding.

8. However, learned Counsel appearing for the opposite parties submits that the writ application was disposed of directing the Respondent No. 4 to decide the matter relating to payment of retiral dues in terms of the recommendation made by the 6th Pay Revision Committee and also the matter relating to grant of senior selection grade and accordingly, the Respondent No. 4 decided the matter wherein benefit of grant of senior selection grade has already been given but the claim of the Petitioner for payment of retiral dues in terms of the recommendation made by 6th Pay Revision Committee was not found to be tenable and, therefore, reason assigned therein cannot be tested in this contempt proceeding, rather that may be the subject matter of the challenge in a writ application and, therefore, when the order has already been complied with, this contempt proceeding is fit to be set aside.

9. Learned Counsel in support of his submission has referred to a decision rendered in a case of Director of Education, Uttaranchal and Others Vs. Ved Prakash Joshi and Others, . One case decided by this Court in Cont. (Civil) Case No. 344 of 2009 was also referred to.

10. Having heard learned Counsel appearing for the parties, it be stated that the writ application was disposed of directing the Respondent No. 4 to decide the matter relating to payment of retiral dues in terms of the recommendation of the 6th Pay Revision Committee and also the matter relating to grant of senior selection grade. Pursuant to that an order as contained in Annexure A, annexed

with show cause has been passed whereby claim for grant of senior selection grade was found to be tenable and accordingly, the order was passed to that effect but the claim of the payment of retiral dues in terms of the recommendation made by 6th Pay Revision Committee was not found to be tenable for the certain reason, correctness of which, according to the decision of the Supreme Court rendered in a case of Director of Education, Uttaranchal and Ors. (supra) cannot be tested in a contempt proceeding.

11. Similar view has been expressed by this Court in a case of Jai Prakash Jha and Ors. v. State of Jharkhand and Anr. [Cont Case (Civil) No. 344 of 2009] wherein it has been held that if the reasoned order, as directed, has already been passed by the Respondent, obviously the Petitioner will have to challenge the same before the appropriate Forum and the said challenge cannot be entertained by way of a petition for contempt.

12. In that view of the matter, the proceeding of this contempt petition is dropped with a liberty to the Petitioner to challenge the order before an appropriate Forum.