
(2013) 07 JH CK 0118

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2799 of 2013

Krishna Kumar Baitha

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-07-2013

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (2013) 07 JH CK 0118

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Amit Kumar Tiwari, for the Appellant;

Judgement

1. In this writ petition, the petitioner has prayed for a direction on the respondents to grant Grade-I scale to him from the date of his joining and all consequential benefits i.e. the promotion from Grade-I to Grade-IV, V etc. The petitioner was appointed as untrained teacher by the Human Resources Development Department, Government of Bihar in accordance with its policy decision and resolution dated 5.3.1991. The Government of Bihar had also framed the Rules known as the Bihar Primary School Teachers' Rule, 1991 in exercise of its power under Article 309 of the Constitution of India wherein there was a provision for appointing untrained teachers and after appointment, for sending the said teachers for in-service Teachers' Training in the Government Colleges.

2. The petitioner was untrained Graduate and was appointed in the year 1994 on the basis of the merit list prepared after completing all the legal formalities. The Director, Primary Education, Government of Bihar by Letter No. 998/95 dated 7.6.95 took a decision to grant Grade-I scale of the Matric Trained to untrained teachers who were Graduate. However, after appointment of teachers, they were not sent for training. The appointment procedure was challenged before the Patna High Court. The matter went up to the Hon'ble Supreme Court in SLP (Civil) No. 23187/1996 (Ram Vinay Kumar & Ors. Vs. State of Bihar & Ors.) In

the said S.L.P., the Supreme Court gave certain direction to the State of Bihar for sending the petitioners for in-service training. The Finance Department, Government of Jharkhand by letter No. 4568 dated 5.7.02 granted Grade-I Matric Trained scale to such untrained teachers w.e.f. 1.1.1996. It was also decided that the seniority position of the petitioners shall be maintained as per the merit list prepared at the time of their appointment. However, the petitioner has been stagnated in the same scale for more than 18 years without any upgradation in the scale. Although the persons appointed with the petitioner have been promoted from Grade-I scale to Grade-IV scale, the petitioner has not been given even Grade-II scale. He made representation through his Association, which was rejected by the Government of Jharkhand indicating that untrained teachers would not be entitled for promotion from Grade-I scale to higher scale and that they would be entitled to Grade-I scale only from the date of acquiring Teachers' Training certificate. The petitioner is aggrieved by the said order.

3. Today when the case is taken up, learned counsel for the petitioner submitted that similar writ petitions have been disposed of by this Court holding that the petitioners' seniority is to be counted from the date of their appointment and that the petitioner is entitled for consideration of fixing his seniority from the date of his appointment and also for consideration of giving the benefit of Grade-IV scale after completion of 8/12 years of his service. Such directions have already been given by this Court in W.P. (S) No. 4235/2004 (Balwant Sahay Vs. The State of Jharkhand & Ors.) and W.P. (S) No. 638/2006 (Arun Sinha Vs. The State of Jharkhand & Ors.) and upheld by a Division Bench of this Court in L.P.A. No. 214 of 2008 and also by the Supreme Court in S.L.A. No. 5520-5522 of 2013.

4. The said legal position has not been disputed by learned counsel for the respondents.

5. I have perused the decisions/directions given by this Court in the said cases. This case is squarely covered by the said decisions of this Court. This writ petition is disposed of holding that the petitioner is entitled to get Grade-I from the date of his joining i.e. on 29.10.1994 and not from the date of completion of the Teachers' Training and is entitled to get all consequential benefits accordingly.