
(2013) 11 JH CK 0013
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5020 of 2012

Laksmisree Banerjee

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-11-2013

Acts Referred:

Citation : (2014) 2 AJR 258 : (2014) 1 JLJR 400

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Indrajit Sinha and Suchitra Pandey, for the Appellant; Ananda Sen and Kaustav Panda, Advocates for the Respondent Nos. 4 and 5, for the Respondent

Final Decision : Disposed Off

Judgement

S. Chandrashekhar, J.—Seeking quashing of order dated 16.07.2012, the petitioner has approached this Court. Heard learned counsel appearing for the parties and perused the documents on record.

2. The petitioner was appointed as a lecturer by Ranchi University by Letter No. RU/C-822-79-81 and she was transferred to Jamshedpur Women's College in January 1984. The petitioner functioned as Head of the Department, English Department between the period from 1994 to 2006. By the order dated 23.10.2009, the petitioner was appointed as Pro-Vice-Chancellor of Kolhan University, Chaibasa and subsequently by order dated 26.09.2010 she was directed to perform the duties of Vice Chancellor, Kolhan University in addition to her duty as Pro-Vice-Chancellor. On 07.09.2011, a show-cause notice was issued to the petitioner to which she replied on 16.09.2011. A one man Inquiry Committee was instituted to inquire into the following charges:

(i) Irregular coming to office ever since after taking over charge of Pro-Vice-Chancellor of Kolhan University, Chaibasa.

(ii) Use of intemperate language on files and showed erratic behavior in office.

(iii) Lacking in knowledge of University Laws/Rules etc. as obvious from her role in grant of affiliation to various colleges in violation of Section 4(19) of the Jharkhand State Universities Act.

(iv) Drawal of excess payment of Rs. 33,240/- only from the University for which recovery proceedings are in progress.

(v) Indulging in financial impropriety by claiming landline phone bill of her Jamshedpur residence which is inadmissible.

(vi) Instrumental in organizing Central Research Board meeting in contravention of the regulation on the subject and thereby incurring wasteful expenditure of Rs. Approximately Rs. one lakh.

3. On conclusion of the inquiry, the Inquiry Committee submitted its report concluding as under:

(i) From the circumstantial evidences revealed in course of verification of records, the Pro-Vice-Chancellor was found absent from Headquarter time to time.

(ii) A few notings of Pro-Vice-Chancellor on the files and press briefing were found harsh in content and tone. However, erratic behavior of Pro-Vice-Chancellor with subordinate and senior official could not be established.

(iii) For violation of rules and regulation in granting affiliation to college, Pro-Vice-Chancellor alone should not be held responsible for any shortcomings for granting affiliation to college as the proposal for affiliation is routed through various stages/processes and finally cleared by the Statutory Bodies of the University.

(iv) Excess payment to Pro-Vice-Chancellor and other officers on account of administrative allowance and HRA/CCA were rendered possible due to incorrect decision taken in the Syndicate and administrative lapses in acceptance of inadmissible claims at University level preferred by Pro-Vice-Chancellor and others.

(v) The claim submitted by Pro-Vice-Chancellor for landline telephone for Jamshedpur residence was irregular and inadmissible.

(vi) There was procedural and administrative lapses in sanctioning and granting of advance to a retired person at University level for organizing meeting of Central Research Board. Approval of expenditure so incurred has not been obtained from the Vice-Chancellor so far. Pro-Vice-Chancellor is not responsible alone for such lapses. The expenditure incurred on organizing the meeting should not be termed as wasteful due to reasons mentioned in para (VI) above.

4. In the background of above facts the committee recommend the following:-

(1) Payment of all inadmissible claims made should be recovered from the Pro-Vice-Chancellor and other officers as per decision taken by the Syndicate on 24th

August 2011.

(2) University authorities should be watchful for non-recurrence of such administrative and financial lapses in future.

(3) In regard to shortcoming detected in granting affiliation to colleges at later stage, the authority may like to withdraw the affiliation of college concerned as provision contained in Section 171(5) of the statutes.

(4) A sound administrative and financial system is required to be evolved in the University for taking appropriate administrative and financial decisions and their implementation in order to accelerate pace of development as the University is passing through "take-off" stage of overall development.

5. By the impugned order dated 16.07.2012, the petitioner was removed from the post of Pro-Vice-Chancellor which is challenged in the present writ proceeding.

6. A counter affidavit has been filed stating as under:

16. That with regard to the statement made in para 20 to 21 of the writ petition, with regard to non-co-operation from administration of KU is incorrect and are denied. It is submitted that the petitioner since the very beginning was not interested in staying at Chaibasa and preferred to stay at Jamshedpur. Petitioner as Pro-Vice-Chancellor was offered best of accommodation available to the university but she always refused to have the same for one reason or the other.

17. That in this regard petitioner has insisted that she may be allowed to reside at Jamshedpur and HRA/TA may be paid to her treating her Jamshedpur residence as official residence. At her request direction was sought from the office of the Director (Higher Education), Department of HRD, Government of Jharkhand by the then Vice Chancellor vide his letter dated 8.11.2010.

18. That the Director (Higher Education), Department of HRD, Government of Jharkhand replied vide his letter dated 17.02.2011, bearing No. 5/BI 1-1/2010/45 and clarified that the University officers and employees are to reside in the same town where the University is situated and all allowance and emoluments are to be paid for the same town.

19. That in view of aforesaid clarification the claim of the petitioner to be allowed to perform her duties from her residence at Jamshedpur and to designate her Jamshedpur residence as her official residence was turned down and she was instructed to accommodate herself at Chaibasa. In fact as the Kolhan University is a new state university and is not having any building or residential quarters/ bungalow of its own therefore she, the petitioner was offered professors' accommodation at Tata College campus, wherefrom the university is being run but she refused to accept the same citing security and other concerns.

20. That as a matter of fact the petitioner vide letter bearing No. KU/R/34/12, dated 5.1.2012 has been offered to choose between (1) the residential quarter of

Tata College Principal, which is being used as residence by the present VC and (2) the officially allotted premises for KU VC within the campus of office of DIG CRPE Alternatively, she was requested to arrange an accommodation of her own and cost/rent for the said premises was offered to be born by the university. However, she even refused to respond to the said letter and continues to reside at Jamshedpur. Letter bearing No. KU/R/34/12.

21. That as the petitioner was based at Jamshedpur, she was not readily available at Chaibasa and even during working days she remained absent or on leave for several days and months, causing obstruction in smooth movement of files and pendency of examination works, which is contrary to the real spirit of Jharkhand State University Act and stature, rules and regulation.

22. That the petitioner was so reluctant about the KU head office that she gave a statement before the press at Jamshedpur on 14.2.2010 that she is not aware if the Kolhan University is being run at/from Chaibasa. Her aforesaid statement together with the fact that she mostly remained absent at KU Office, cause an uproar in the region. In this regard the office of the Hon"ble Chancellor sought an detailed enquiry and explanation from the then Vice Chancellor, Kolhan University, vide a letter issued by the OSD(J) to the Hon"ble Chancellor-cum-Governor dated 13.3.2010, bearing No. 656 (Anu)/Rs. Sa.

25. That it is further submitted that petitioner as Pro-Vice-Chancellor has been provided with an official vehicle bearing No. JH-05-AA-7670, which is supposed to be used for official work. The claim of the petitioner that during the period of her tenure she regularly attended her office at Chaibasa by traveling from Jamshedpur to Chaibasa is further belied by the log-book of the official vehicle allotted to her. As per the said log book she was present at the Chaibasa for about 60 days in the year 2010 and for about 50 days in the year 2011. During the remaining period vehicle along with driver was used by her for personal works at Jamshedpur.

7. Heard learned counsel appearing for the parties and perused the documents on record.

8. Mr. Indrajit Sinha, learned counsel appearing for the petitioner submitted that though there was no charge of unsatisfactory performance in the order of termination dated 16.07.2012, a direction has been issued to enter unsatisfactory performance in the service book of the petitioner. He has further submitted that even the direction in the impugned order dated 16.07.2012 of the petitioner not to be appointed on any post of responsibility is stigmatic and such a direction has been given without issuing any show-cause notice to the petitioner and without asking any explanation from the petitioner.

9. As against the above, Mr. Ananda Sen, learned counsel appearing for the respondent has submitted that the petitioner was found absent from her office. She has claimed telephone bills and the petrol bills which were not admissible to her and thus, she has committed financial irregularity and in these facts, the

directions were issued in notification dated 16.07.2012.

10. On a perusal of the inquiry report dated 21.12.2011, I find that in so far as, the allegation of drawing excess landline telephone bills is concerned, the inquiry officer has recorded a finding that such bills were though presented by the petitioner, before making payment the university authorities were required to verify the admissibility of those bills and therefore, the lapses on the part of the university cannot be ruled out. It would also appear from the inquiry report that the excess withdrawal of HRA was on account of the decision of the Syndicate and besides the petitioner other officers had also withdrawn excess amount on account of HRA. I further find that in so far as, the unsatisfactory performance of the petitioner is concerned, there was no allegation into which the inquiry officer has gone into and therefore, there is no such finding recorded in the inquiry report. Merely because the petitioner was present in her office for 50 to 60 days, no inference can be drawn that her performance was not satisfactory. The directions issued in the notification dated 16.07.2012 insofar as it relates to direction Nos. 2, 3 & 4, appear to be unwarranted and unjustified. Since the tenure of 3 years is already over, the termination order dated 16.07.2012 cannot be interfered with as the petitioner cannot be reinstated on the post of Pro-Vice-Chancellor. So far as the directions at serial No. 2, 3 & 4 are concerned, these are quashed, however it is made clear that any inquiry if proposed to be held into grant of affiliation to the colleges during the tenure of petitioner, would not be affected by this order. Accordingly, this writ petition is disposed of in the aforesaid terms.