
(2012) 05 JH CK 0118

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1016 of 2004

Mahendra Prasad Sharma

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-05-2012

Acts Referred:

Citation : (2012) 4 JCR 189

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Vishal Kr. Trivedi and Shresth Gautam, for the Appellant; M.K. Choubey, JC to SC-III, for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the petitioner as well as learned counsel for the respondents. It is submitted by learned counsel for the petitioner that petitioner retired from the service on 31.12.2002 from the post of Correspondence Clerk while working in the office of District Superintendent of Education, Giridih. According to the petitioner, he was compelled to move this Court for the payment of all retiral dues, which were not paid to him.

2. Respondents have appeared and filed their counter affidavit, in which they have stated in para-4 that payment of following dues has been made to the petitioner, which is as under :--

3. It has also been stated that provisional pension of the petitioner has been fixed @ Rs. 7756/- per month and the same was paid to him up to the month of October, 2003. For the rest period it was not processed. However, it has been alleged in paragraph-6 that a departmental proceeding is still pending against the petitioner on some serious charges levelled against him during his service when he was posted as Head Clerk at the office of District Superintendent of Education, Giridih. It has been further submitted in paragraph-13 that gratuity amount of the petitioner has not been released with the consent of Deputy Commissioner, Giridih as the departmental proceeding is still pending against

him.

4. Learned counsel for the petitioner has submitted that provisional pension of the petitioner has not yet been paid and gratuity amount is still being withheld on account of pendency of the departmental proceeding, which still remains inconclusive. Learned counsel for the petitioner has relied on a decision in the case of Dr. Dudh Nath Pandey v. State of Jharkhand and Others, reported in 2007 (4) JCR 1 (Jhr) (FB). In the circumstances, it has been submitted on behalf of the petitioner that liberty may be granted to the petitioner to file representation before the competent authority i.e., respondent No. 5, District Superintendent of Education, Giridih for redressal of his remaining grievances.

5. In the circumstances, liberty is granted to the petitioner to file a representation before the respondent No. 5, District Superintendent of Education, Giridih for redressal of his remaining grievance relating to the payment of pension and gratuity and other retiral dues in the light of the judgment referred hereinabove with statutory interest, if any within a period of two weeks. In case, such representation is filed before the respondent No. 5, District Superintendent of Education, Giridih, he would consider the same in accordance with law and pass a speaking and reasoned order within a period of six weeks thereafter and the same shall be communicated to the petitioner.

6. Needless to say, if any of the dues is found legally admissible to him, the same should be paid within four weeks thereafter with statutory interest, if any. With the aforesaid observations and directions, this writ petition stands disposed of. Petition disposed of.