
(2003) 07 JH CK 0049
In the Jharkhand High Court
Case No : CWJC No. 3859 of 2002

Mrs. Praveena Choudhary

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 3 JCR 261

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : M. Sohail Anwar, M. Sadique Ahmad and A. Ahmad, for the Appellant; Ritu Kumar, G.P. IV and Ravi Kr. Singh, for the Respondent

Judgement

M.Y. Eqbal, J.—In this writ application the petitioner has prayed for grant of time bound promotion/scale which is said to be due since 1.1.94 and also grant of consequential benefits.

2. Petitioner's case is that on 1.9.84 she joined as lady Supervisor and completed 10 years of service on 1.9.94. According to the petitioner, she is entitled to get time bound promotion on completion of 10 years with effect from 1.9.94 with all other consequential promotional benefits. Respondents on the other hand contended in the counter affidavit that in view of Clause 11 of the resolution of the Finance Department dated 8th February, 1999, promotion given by 31.12.1995 will not be taken into consideration, because of the implementation of the revised pay scale. It is contended, that if an employee possess requisite qualification and eligible for promotion to the next higher grade and if option is given for new pay scale then the employee has no right to claim for promotion to the next higher grade.

3. I have heard Mr. M.S. Anwar, learned counsel for the petitioner and Mrs. Ritu Kumar, G.P. IV. For better appreciation Clause 11 is reproduced here in below :

"The State Government have decided to abolish the existing facilities of Time

Bound Promotions and Selection Grades, discussed in paras 10 and 12 of F.D. Resolution No. 6021 date 18th December, 1989 and they shall cease to be applicable with effect from 1st January, 1996, thereafter in the existing pay scales. If any, such promotion, however, is due under the Rules before 1st January 1996, it shall be given and the payment of arrears in the existing scale shall be made only up to 31st December, 1995 after which the promotion would be deemed to have been automatically terminated. While fixing pay in the revised scales, such promotions given after 31st December 1995, will not be taken into consideration. If such promotions have been given after 31st December 1995, then the question of adjustment of such additional emoluments obtained in the process, will be decided after the Fitment Committee submits its recommendations on promotion Policy. Promotion to any vacancy of a post identified as need based post" would be admissible. The procedure for identification of such need based posts has been set out in paragraph 12."

4. From perusal of the aforesaid clause, it is manifest that time bound promotion has been abolished and it was cease to be applicable with effect from 1.1.96. However, this clause provided that if any such promotion was due in the old rule before 1.1.96, it shall be given and the payment of arrears in the existing scale shall be made only upto 31st December, 1995, after which promotion would be deemed to have been automatically terminated. Complying the provisions of the aforesaid clause, in the case of the petitioner, it appears that admittedly petitioner became entitled for promotion with effect from 1.9.94 and therefore she will be entitled to promotional scale up to 31.12.95 and thereafter revised pay scale.

5. Learned G.P. IV submitted that in any view of the matter, petitioner would not be entitled to any relief more than the relief for difference of arrears of salary from 1.9.94 to 31.12.95. In course of argument, it has not been disputed that petitioner is getting revised pay scale in view of the Finance Department Resolution. I am therefore, of the opinion that petitioner would be entitled to difference of arrears of salary from 1.9.94 to 31.12.95.

6. With the aforesaid observation, this writ application is allowed in part and the respondents are directed to take decision for payment of arrears of salary on the promotional scale from 1.9.94 to 31.12.95. Such decision must be taken within Six weeks from the date of receipt/ production of copy of this order.