
(2022) 03 JH CK 0080

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3713 Of 2011

Mukund Ram Rabidas

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 07-03-2022

Acts Referred:

Citation : (2022) 03 JH CK 0080

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Aditya Raman

Final Decision : Dismissed

Judgement

Anubha Rawat Choudhary, J

1. Nobody appears on behalf of the petitioner.
2. Learned counsel for the respondents Mr. Aditya Raman is present.
3. Learned counsel for the respondents refers to order dated 14.02.2022 to submit that the learned counsel for the petitioner was granted time till 20.02.2022 to file rejoinder to the counter affidavit filed way back in the year 2013 and it was also observed that if no rejoinder will be filed, case will be taken up on the basis of materials on record. Today, neither the learned counsel petitioner is appearing nor any notice has been sent seeking adjournment.
4. In the aforesaid circumstances, the case of the petitioner as well as the case of the respondents has been placed by the learned counsel for the respondents to assist this court for the purposes of final disposal of the present case.
5. This petition has been filed for the following reliefs:
"For issuance of direction upon the respondents to grant and pay the Grade-IV Scale to the petitioner with effect from 30.01.1996 and Grade-VII Scale w.e.f. 01.02.2004 respectively."

6. The specific case of the petitioner is that the petitioner was appointed as Assistant teacher under the respondents on 18.10.1973 as Higher Secondary Untrained and Grade I Scale since 01.04.1977, Grade II scale was given since 01.04.1989 and Grade-III scale was given since 2000. The case of the petitioner is that he is entitled to get Grade-IV scale since 30.01.1996, Grade-VII scale since 01.05.2006 as per promotion rules of the year 1993 which has not been placed on record. Further grievance of the petitioner as mentioned in para -9 of the writ petition is that certain persons who have been given appropriate Grade IV and Grade VII scale are juniors to the petitioner.

7. Learned counsel for the respondents while referring to the counter affidavit has submitted that the petitioner was initially appointed as Untrained Matric Pass Teacher and later on he got professional teacher training on 20.09.1976 and first time bound promotion was given to the petitioner after lapse of 12 years w.e.f. 03.12.1992 and similarly grade III from 01.04.2000. He has further referred to the counter affidavit to submit that persons who have been given promotion with regards to whom the petitioner claims that they are junior to him, are in fact are senior to the petitioner. Counter affidavit also indicates that the petitioner has not mentioned under which promotion rule of 1993, his promotion is due from the particular date and how his claim for promotion has been ignored. Learned counsel has also referred to paragraph No. 11 of the counter affidavit filed as back as in the year 2013, to which no rejoinder has been filed.

8. This court finds that the respondents in the counter affidavit has taken a specific stand to disentitle the petitioner of the claim made in the writ petition and has referred to the gradation list and has also denied having given any benefit to the juniors to the petitioner. Paragraph 6, 11 of the counter affidavit is quoted as under:

"6. That with regard to statements made in paragraph-1 of the writ application under reply, it is most humbly stated and submitted that the petitioner was initially appointed as Untrained Matric Pass Teacher and later on he got professional teacher training on 20.09.1976 and after this his name was included in basic grade of teacher and on this basis he has been given first time bound promotion after lapse of 12 years with effect from 03.12.1992 and similarly grade III from the year 01.04.2000 in this way the teachers about who he has claimed to be junior than him in para-9 of his writ application, are in fact senior than the petitioner and so that have been awarded grade IV & VII, as such the claim of the petitioner is not sustainable.

11. That with regard to the statements made in paragraph-8 & 9 of the writ application under reply, it is most humbly stated and submitted that the petitioner has not furnished full detail and data as to how he is senior than the teacher who have been given promotion vide memo no. 755 and 754 dated 04.08.2009 of respondent no. 3 amongst some of them have been named in para-9 of the writ application.

It is further most humbly stated and submitted that the petitioner has passed Teacher's Training Examination in the year 1980, B.A. in 1996 and M.A. in January, 2004 where as it would be evident from the combined gradation list and so also from the gradation list prepared exclusively for the teacher of scheduled caste category, that position of the petitioner in the gradation list is much lower than the teachers promoted vide memo no. 754 and 755 dated 04.08.20009 (Annexure-2 & 2/1 of the writ application) and the names of teachers referred to para 9 of the writ application, stand of serial number higher than him."

9. After going through the materials on record and the aforesaid undisputed stand taken by the respondents in the counter affidavit, this court finds no merit in the stand taken by the petitioner that his juniors have been granted the reliefs claimed by the petitioner. Further, neither the so-called rules have been annexed with the writ petition, nor the details of the so-called promotion rules of 1993 has been mentioned in the writ petition. Further, the respondents have also raised an objection that the petitioner has not mentioned as to under which rule of 1993 the petitioner is entitled for promotion.

10. In the aforesaid facts and circumstances and on the basis of materials on record, no relief can be granted to the petitioner in this writ petition, which is accordingly dismissed. However, if the petitioner is entitled for any promotion under any specific rule, it will be open to the petitioner to make such a claim before the competent authority by specific reference and enclosing the relevant rule for such claim which may be considered in accordance with law.

11. Pending I.A., if any, stands closed.