

(2023) 01 JH CK 0018
In the Jharkhand High Court
Case No : Writ Petition (S) No. 1053 Of 2009

Murari Prasad And Others

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 05-01-2023

Acts Referred:

Citation : (2023) 01 JH CK 0018

Hon'ble Judges : Dr. S.N.Pathak, J

Bench : Single Bench

Advocate : Rita Kumari, Mrinal Kantri Roy, Abhinay Kumar

Final Decision : Disposed Of

Judgement

Dr S. N. Pathak, J

1. The petitioners have approached this Court with a prayer for a direction upon the respondents to pay the dues of salary to them, which was illegally withheld by the concerned respondents.

2. The case of the petitioners lies in a narrow compass. The petitioner No.1 was appointed as Clerk-cum-Accountant vide Letter No..1440 dated 25.07.1983 and was posted in the office of Adult Education Project Officer, Asthawan, Nalanda and the petitioner No.2 was appointed vide Letter No.12 dated 25.01.1985 as Clerk-cum-Typist and was posted in the office of Adult Education Project Officer, Nursarai, Nalanda. The petitioner No.3 was appointed vide Letter No.211-219 dated 30.04.1985 as Clerk-cum-Accountant and was posted under the District Adult Education Officer, Bhojpur and the petitioner No.4 was appointed vide letter No.848-850 dated 16.12.1985 as Clerk and was posted in the office of Adult Education Project Officer, Manihari, Katihar. After the appointment, the petitioners were working to the satisfaction of the respondents and after completion of requisite period of service, they were granted the benefits of first time bound promotion. It is specific case of the petitioners that after bifurcation of the State of Bihar, the services of the petitioners were allocated to the State of

Jharkhand under the Department of Mass Education. The petitioners were continuously discharging their duties in the State of Jharkhand, but the Government of Jharkhand closed the Department of Mass Education w.e.f. 15.05.2001. However, the petitioners remained as the Government employees as neither they were retrenched nor were relieved from their services and also they were not paid their salaries. It is specific case of the petitioners that in the year, 2007-08, the petitioners were absorbed in different Government Department under the State Government. Since the petitioners were not paid salary from 16.05.2001 till date of their absorption, they have approached this Court for redressal of their grievances.

3. During pendency of the writ petition, similarly situated persons, have approached before the Hon'ble Apex Court in SLP (C) Case No.10361-10364 of 2014 and the Hon'ble Apex Court vide its order dated 18.07.2014 directed the respondent-State for payment of the arrears to the employees in phased manner, within a period of two years.

4. Ms. Rita Kumari, learned counsel for the petitioners submits that the petitioners are also entitled for arrears of salary for the said period in view of the order passed by the Hon'ble Apex Court in case of State of Jharkhand & Ors. Vs. Asgar Ali & Ors. passed in SLP (C) Case No.10361-10364 of 2014. She further submits that after filing of the writ petition though the some amount of arrears/salary was paid to the petitioners, but the petitioners are still aggrieved as they are entitled for full salary/arrears for the said period in view of judicial pronouncement. She draws the attention of the Court towards counter-affidavit and rejoinder affidavit and submits that admittedly, the respondents have taken shelter of one Letter dated 17.03.2015 in making the payment to the employees, but the said letter is not in consonance with the order of the Hon'ble Apex Court. However, the said letter is not under challenge.

5. Per contra, counter-affidavit has been filed. Mr. Mrinal Kanti Roy, learned counsel for the respondents very fairly submits that no amount is due to the petitioners as entire payment has been made in view of the Letter dated 17.03.2015 issued by the Director Primary Education, Govt. of Jharkhand as per their entitlement and in context with the order of Hon'ble Apex Court. However, he further submits that if the petitioners are still aggrieved with the calculation, they can approach the respondents individually for their grievances/calculation, which according to them has not been paid/released.

6. Be that as it may, having gone through the rival submissions of the parties and on perusal of the records, it appears that the respondents have released the arrears of salary to the petitioners for the said period in view of Letter dated 17.03.2015 issued by the Director, Primary Education, in view of the order of Hon'ble Apex Court. But, in view of the rejoinder affidavit filed by the petitioners, it appears that the petitioners are still aggrieved that the entire payment as per the order of Hon'ble Apex Court has not been released and calculation has wrongly been made by the respondents. Since a handsome/huge amount has

been paid to the petitioners, this writ petition stands disposed of with a direction upon the petitioners to file fresh representation individually before the respondents concerned along with a copy of this order for remaining grievances. On receipt of the same, the respondent concerned is directed to pass a reasoned order, in accordance with law, within a period of six weeks thereafter.

7. Needless to say that if the petitioner is found entitled for any amount, the same shall be extended to them, within a further period of four weeks, in accordance with law.