

(2003) 08 JH CK 0076

In the Jharkhand High Court

Case No : WPS No's. 265, 345 and 393 of 2003

Nand Kumar Singh and Others, Suresh Kumar and Kishore
Kumar Parhi

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-08-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 4 JCR 230

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

Bench : Single Bench

Advocate : M.S. Anwar, for the Appellant; A.K. Mehta, for the Respondent

Judgement

M.Y. Eqbal, J.—The petitioners are the non-teaching staff of Mandar College, Mandar having been appointed in Class IV post in the year 1984-85. At that time Mandar College was an affiliated college and it became constituent in 1986. The petitioner services was terminated by the University in 1992. However in pursuance of the direction of the Patna High Court in CWJC No. 4021/95 the respondent Ranchi University took a decision to reinstate and regularize the services of the petitioner along with other non-teaching employees of the college vide notification dated 6.10,1998. The petitioners case is that after reinstatement they joined the service in the Mandar College and have been working there but salary is not being paid to them. Admittedly by matter regarding regularization and absorption of the employees of the newly converted colleges of the Ranchi University is pending before the Supreme Court and the Supreme Court constituted one man committee of Hon'ble Mr. Justice S.J. Agarwal retired Judge of the Supreme Court.

2. The respondent-University in the counter affidavit stated that if the name of the teaching and non-teaching employees of the newly constituted college is appearing in the list prepared by the State Government and have been found to be working prior to the date of takeover of the college they would be entitled to

payment of salary as and when amount is released by the Government.

3. The Supreme Court in the matter pending passed an interim order on 12.10.2001. Para 3 of the order reads as under--

"During the pendency of this appeal the concerned teachers and other employees who would be affected by the ultimate outcome of the proceeding before us will get their full salary alongwith admissible allowances and other benefits subject to any other order made by this Court is made clear that the Services of the teaching and non-teaching staff of the shall not be disturbed during the pendency of the proceedings. The State Governments of Bihar and Jharkhand shall share the expenses of the inquiry to be conducted by Hon''ble Mr. Justice S.C. Agarwal and his remuneration may be paid as may be fixed by him. Each State Government shall present all evidence and material pertaining to the inquiry before the learned Judge within three weeks after he fixes the date of inquiry. The inquiry shall be completed as expeditiously as possible preferably no later than six months."

4. The terms of reference formulated by the Supreme Court is as to how many sanction post of teaching and non-teaching employees were there in the 40 colleges which were converted into constituent colleges pursuant to the sanction letter dated 19.8.1986 of the State of Bihar. Admittedly it has not been disputed by the University that the instant college namely Mandar College become constituent in the year 1986. It also appears from the notification dated 6.10.1998 issued by the Ranchi University that this petitioners were reinstated and their name appear in the list of the employees mentioned in the said notification.

5. The only question that is to be considered is to whether the petitioners would be entitled to get salary in terms order passed by the Supreme Court. Admittedly the name of the petitioners appear in the list of the notification issued by the University reinstating their services and also undisputedly the college in question became constituent in the year 1986. In that view of the matter the petitioners are entitled to get the benefit of the interim order passed by the Supreme Court for payment of salary if those reinstated employees are working in the college.

6. Mr. A.K. Mehta learned counsel appearing for the University submitted that in any view of the matter the petitioner would be entitled to get current salary. On the other hand Mr. M.S. Anwar, learned counsel appearing for the petitioner submitted that the entire arrears of salary should be paid to the petitioner and if not atleast arrear of salary from January 2003 be paid to the petitioner. In view of the fair submission made by Mr. M.S. Anwar, and as agreed by him the respondent University is directed to release the arrears of salary at least from January 2003 and also the current salary. Needless to that this order shall be subject to the final decision that may be taken by the Supreme Court. Ordered accordingly.