
(2021) 02 JH CK 0173
In the Jharkhand High Court
Case No : Writ Petition(S) No. 57 Of 2021

Neera Parmar

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 22-02-2021

Acts Referred:

Citation : (2021) 02 JH CK 0173

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Rahul Kumar, Faisal Allam, Atul Roy

Final Decision : Disposed Of

Judgement

1. Heard Mr. Rahul Kumar, the learned counsel for the petitioner, Mr. Faisal Allam, the learned counsel for the respondent State and Mr. Atul Roy,

the learned A.C. to Mr. Anoop Kumar Mehta, the learned counsel appearing on behalf of the respondent nos.3 to 5.

2. This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising

due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been

heard.

3. The petitioner has preferred this writ petition for direction to the respondents to pay equitable relief and retiral benefits including pension,

commutation of pension, provident fund and gratuity to the petitioner as has been allowed with respect to the Deficit Grant Minority Colleges in the

State of Jharkhand. The prayer for releasing the consequential benefit to the petitioner is also made in the writ petition.

4. The petitioner was appointed as Lecturer on 01.08.1979 in the Hindi Department of Nirmala College, Ranchi which is a Minority Aided College, duly affiliated with Ranchi University, Ranchi. In pursuance to the letter dated 31.07.1979, the petitioner gave her joining on 01.08.1979 on the post of Lecturer in the Department of Hindi in Nirmala College, Ranchi. The respondent College as well as Bihar Colleges Service Commission, Patna has confirmed and approved the services of the petitioner in the said college as Lecturer in the Department of Hindi. The petitioner was promoted from the post of Lecturer to the post of Reader under the 10-years time-bound promotion scheme with effect from 01.08.1979. The said promotion of the petitioner was duly recommended by the said Commission and approved and notified by the respondent University. The Governing Body of the respondent Nirmala College in its meeting held on 25.01.1997 considered the application of the Readers for promotion to the post of Professor under 16/25 years' promotion scheme and approved the application of the petitioner for promotion as Professor w.e.f. 01.08.1995 under 16/25 years' promotion scheme and subsequently recommended the name of the petitioner to the Screening Committee of Ranchi University. The Ranchi University upon recommendation of the case of the petitioner by the Bihar Colleges Service Commission, Patna vide letter dated 01.05.2000, promoted the petitioner on the post of Professor in the Hindi Department of the Nirmala College w.e.f. 01.08.1995. Subsequent thereto, the pay scale of the petitioner was fixed. The petitioner has also moved before this Court in W.P.(S) No.971/2006 for fixation of pay scale of the University Professor which was disposed of. Now the petitioner has superannuated w.e.f. 31.05.2012. The Government vide resolution dated 19.12.2012 took a decision to pay pension, provident fund and gratuity to the teachers/non-teachers in the Minority Colleges who had been appointed prior to 01.12.2004, but the said scheme was to be implemented from the date of issuance of the resolution dated 19.12.2012. For implementation of the scheme, a batch of writ petitions were filed before this Court and out of that batch of writ petitions, one was being W.P.(S) No.1654/2013. The said writ petition was disposed of by order dated 12.08.2016, directing therein as follows:

23. On cumulative effect of the facts, reasons and judicial pronouncements, the writ petition is disposed of with direction to the respondents to

consider and take a decision afresh, in accordance with law in issuing a corrigendum, so that the notification dated 19.12.2012 shall apply in the same and similar manner with regard to the reaching/non-teaching staffs, who have been appointed on or before 01.12.2004 and retired prior to the issuance of notification dated 19.12.2012, within a period of sixteen weeks from the date of receipt of a copy of the order.

5. Mr. Rahul Kumar, the learned counsel appearing for the petitioner submits that the writ petition being W.P.(S) No.1654 of 2013 and analogous

cases had been disposed of however the petitioner had been denied the same and further the Division Bench has also dismissed the LPAs of the

State. He further submits that the Division Bench has further clarified the matter and ordered that the order is being passed in the nature of judgment

in-rem for all the superannuated teaching and non-teaching staff of the affiliated minority colleges in the State, appointed on or before 01.12.2004 and

retired from the service before the cut-off date, i.e. 19.12.2012. In the LPA No.560/2017 and analogous cases, this observation is made in para-7 of

the said judgment. He submits that pursuant thereto the benefit of the same has been provided to many of the retired teachers, however, the petitioner

has been left out. He further submits that the matter has already been set at rest and travelled upto the Hon'ble Supreme Court and in the contempt

proceeding the State has already paid 50% arrear of the petitioners of that case.

6. Mr. Faisal Allam, the learned counsel appearing on behalf of the respondent State and Mr. Atul Roy, the learned counsel appearing on behalf of the

respondent nos.3 to 5 are in agreement of the submission of Mr. Rahul Kumar, the learned counsel.

7. In view of the above facts and considering the judgment of the co-ordinate Bench as well as of the Division Bench, the writ petition is being

disposed of directing the petitioner to approach the respondent no.2 by way of filing a fresh representation along with all the credentials including the

judgments on which the petitioner is relying within two weeks.

8. If such a representation is filed within the aforesaid period, the respondent no.2 shall take a final call on the said representation of the petitioner and

will pass appropriate reasoned order in light of the judgment rendered by this Court in the earlier round of litigation (supra) and will pass a reasoned

order within a period of eight weeks since the matter has been set at rest in view

of the fact that the matter travelled upto the Supreme Court and in contempt respondent State has complied the order for petitioners of the cases noted above, the case of the petitioner is required to be considered at par.

9. It goes without saying that if the decision is taken in favour of the petitioner and the case of the petitioner is covered in the light of the judgment as noted (supra), the benefit of the same shall be provided to the petitioner within six weeks further thereafter.

10. With the above observation and direction, the writ petition stands disposed of.