
(2002) 05 JH CK 0064

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2352 of 2001

Om Prakash Shaw and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 08-05-2002

Acts Referred:

Citation : (2002) 05 JH CK 0064

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

Bench : Single Bench

Advocate : A.K. Sinha, Azimuddin and Saurav Arun, for the Appellant; R.A. Gupta, JC to AAG, for the Respondent

Judgement

M.Y. Eqbal, J.—Heard the parties.

2. The petitioners, who are the teachers claim the pay scale of Rs. 5.000-8.000/- which according to them was payable w.e.f. 1.4.1997 as per 5th Pay Commission recommendation, alleged to have been implemented by the Government of Bihar.

3. Petitioner's case is that in 1980, the District Superintendent of Education, Dhanbad published an advertisement calling for application for appointment of untrained Science Teacher having qualification of B.Sc. Pursuant to the aforesaid advertisement, they applied for appointment but they were not appointed. Petitioners then filed writ petition being C.W.J.C. No. 158 of 1989(R) and pursuant to the direction of this Court in the order dated 13.7.1999 passed in the aforesaid writ petition, petitioners were appointed as Science Teachers in 19.89. It is contended that in 1989, petitioners were wrongly given pay scale of Rs. 535-735/- as the pay scale for untrained teachers was Rs. 680-965/-and therefore, petitioners tiled representation in 1992 before the Director, Primary Education. Bihar. Patna. When the representation of the petitioners was not considered, they filed C.W.J.C. No. 10786/1993 in the Patna High Court. However, they subsequently withdrew the said writ petition, in 1994, they were given seniority over other teachers. In 1994 petitioners were given pay scale of

B.Sc. untrained Science Teachers of Rs. 680--965/-During this period, petitioners said to have passed their correspondence Teachers Training Education, from Centre for Social Welfare Development, Madras, which is equivalent to B.Ed. degree.

4. It appears that after giving pay scale of Rs. 680-965/- the pay scale of the petitioners was revised on the basis of the 4th Pay Commission in the scale of Rs. 1,200-2040/-. In 1995, respondent fixed the pay scale of the petitioners on promotion in Senior pay scale of Rs. 1,400-2,600/-. It is contended that since the State of Bihar implemented the recommendation of the 5th Pay Commission with effect from 1.1.1996, petitioners' salary was to be re-fixed on the basis of the 5th Pay Commission recommendation. However, in July, 1999, respondents fixed the pay scale of the petitioners in the scale of Rs. 3,050-4,590/- on the basis of 5th Pay Commission recommendation, which pay scale according to the petitioners applicable to the Metric untrained Teachers. The contention of the petitioners is that fixation of pay scale at Rs. 3,050-4,590/- on the basis of the 5th Pay Commission recommendation is illegal and arbitrary because the said scale is payable to the Metric untrained Teachers.

5. Respondents' case in the counter affidavit is that in 1989, petitioners were appointed in the pay scale of untrained Metric Teachers as they were holding B.Sc. untrained qualification. Petitioners were then given pay scale of 680-965/- and were also given seniority in compliance of the direction of the Court in C.W.J.C. No. 158/89(R). Respondents' further case is that certificate obtained by the petitioner in Teachers Training Education from the Social Welfare Development Centre, Madras is not recognised by the Government of Bihar or by the State of Jharkhand and therefore petitioners cannot be treated as B.Sc. trained teachers and they were not entitled to the pay scale of Rs. 5,000-8,000/-. Petitioners have just completed their one year active course of Teachers Training from Government of Bihar Primary Teachers Training College, Hazaribagh but they were not declared as trained teachers till date. If they pass the above mentioned examination, they will be treated as Metric Trained Teachers.

6. Admittedly, in 1989 petitioners were appointed as Science Teachers in the Metric untrained scale as they were having a qualification of B.Sc. only.

7. In 1992, petitioners filed representation claiming their pay scale of Rs. 680-965/- and for that petitioners had filed C.W.J.C. No. 10786/1993 in the Patna High Court. During the pendency of the writ petition, petitioners were given seniority over some of the teachers. Petitioners having been satisfied with the seniority given to them, withdrew the said writ petition and did not claim any higher pay scale. In 1994, petitioners were given pay scale of 680-965/- It is only after the petitioners passed their correspondence Teachers Training Education from the Centre for Social Welfare Development, Madras, they started claiming Metric Trained Scale on the ground that the correspondence Teachers Training Education is equivalent to B.Ed. degree.

8. it has been categorically stated by the respondents that Centre for Social Welfare Development. Madras is not recognised by the State of Bihar and the correspondence Teachers Training Education cannot and shall not be equivalent to B.Ed. degree. It is also admitted fact that in 1995. respondents fixed the pay scale of the petitioners on promotion in Senior Pay Scale of Rs. 1,400-2,600/-, Petitioners thereafter, realised that the correspondence Teachers Training Education was not equivalent to B.Ed, degree, they joined the Teachers Training College. Hazaribagh in 1999 and after completing their Teachers Training Course, they were relieved from the College on 31.5.2000. In para 20 of the writ petition, petitioners had admitted that after completing the Teachers Training Course in 2000 they agitated their grievance regarding fixation of their pay scale at Rs. 3,050-4,590/- and demanded that their pay scale should be fixed in the scale of Rs. 5,000-8,000/- applicable to Graduate Trained Teachers. Respondents have categorically stated that if they pass Teachers Training Examination, they will be entitled to Metric Trained Scale of Rs. 4,500-6,000/-. I am therefore, of the view that if the petitioners pass the Teachers Training Examination for which they have already completed the Teachers Training Course in 2000, their cases shall be considered by the respondents for fixation of pay scale. At this stage, petitioners cannot and shall not be entitled to they pay scale of Rs. 5,000- 8,000/- with effect from 1.4.1997 as per 5th Pay Commission recommendation.

9. As noticed above, in 1994 when petitioners were given seniority and their pay was protected, they were satisfied with the decision of the respondents and withdrew the writ petition being C.W.J.C. No. 10786/93. Petitioners cannot claim Metric Trained Scale on the basis of the certificate granted by the Madras Institute on the basis of correspondence Teachers Training Education. In the event, petitioners pass Teachers Training course and make representation, the respondents shall consider the same and take a decision with regard to fixation of pay scale.

10. With the aforesaid observation and direction this writ application is disposed of.