
(2001) 07 JH CK 0075
In the Jharkhand High Court
Case No : CWJC No. 3809 of 1999 (R)

Pawan Kumar Jha and Others

APPELLANT

Vs

Birsa Agriculture University and Others

RESPONDENT

Date of Decision : 31-07-2001

Acts Referred:

Citation : (2001) 07 JH CK 0075

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

Bench : Single Bench

Advocate : P.P.N. Roy, D.K. Prasad and B.P. Paswan, for the Appellant; A.K. Sahani, for the Respondent

Judgement

M.Y. Eqbal, J.—Heard Mr. P.P.N. Roy, learned counsel for the petitioner and Mr. A.K. Sahani, learned counsel for the respondents.

2. In this writ application the petitioners seek issuance of an appropriate direction upon the respondents to take admission of petitioner Nos. 1 and 2 in Ph.D. Course of Horticulture and Agronomy respectively and to take admission of petitioner Nos. 3 and 4 in Ph.D Course of Plant Breeding and Genetics for the Sessions 1999-2000 along with all admissible salary, allowances, increments during the period of study leave at Birsa Agriculture University, Kanke.

3. Petitioners' case is that they are Senior Technical Assistants working under the respondent-University posted in different departments for the last 10-12 years. It is stated that as per the regulation of the University an employee who has completed 3 years of service, may be admitted for higher education. Accordingly, as per the advertisement the petitioners applied for admission in Ph.D. Programme but they were not admitted for higher studies. Petitioners case is that they have been continuously raising their grievances since 1992-94 for admission in Ph. D. Programme but they have been denied such benefits by the University.

4. In the counter-affidavit filed by the respondents it is stated, inter alia, that the

petitioners are working as Senior Technical Assistants under different ICAR Projects/ Schemes. The facility for nomination under Faculty Development Programme with salary support under existing Regulations is for faculty members (Teacher/Scientists) above Assistant Professors/Junior Scientists. Since Technical Assistants are not faculty members, they are not entitled for nomination under Faculty Development Programme with salary support for doing Ph.D. It is contended that the Faculty Development Committee in its meeting decided that under existing Regulations of the University Senior Technical Assistants do not come under Faculty Development Programme since they are not faculty members. It is further contended that since the petitioners are working under ICAR Scheme and in the light of the objection raised by ICAR, they cannot be relieved for study leave with salary benefits under Faculty Development Programme.

5. Mr. P.P.N. Roy. learned counsel for the petitioners has not disputed the fact that the petitioners are working as Senior Technical Assistants under ICAR Scheme. Learned counsel submitted that ICAR has not imposed any restriction nor has raised any objection for relieving the petitioners for higher study with all benefits.

6. From perusal of Annexure 4 to the reply to supplementary counter affidavit filed by the University it appears that the petitioners were appointed by the respondents-Birsa Agriculture University and were posted against [ICAR Scheme. The appointment letter contains terms and conditions of service. It has been categorically stated by the University in the counter-affidavit that under the Regulations of the University Technical Supervisors may be allowed to pursue Masters Degree Programme only and not Ph.D Degree with full salary support.

7. Mr. Roy. learned counsel for the petitioners could not bring to my notice any of the clauses of the Regulation of the University by which Senior Technical Assistants are, as a matter of right, entitled to get admission in Ph.D Programme by availing relief of full salary support. The University, however, has conceded that the petitioners are free to take admission in Ph.D Programme at their own cost by availing their leave due, if they fulfil all eligibility criteria.

8. In that view of the matter I am of the opinion that in absence of any specific clause in the Regulation the petitioners cannot, as a matter of fact, claim admission in Ph.D Programme with full salary support. Apart from that, this Court cannot issue such direction directing the University to allow the petitioners to take admission in Ph.D Programme with all salary benefits. Moreover, the Sessions for which the petitioners claim admission i.e. 1999-2000 has since expired. The petitioners, if so advised, may approach the University for admission in Ph.D Course in the coming Sessions, which shall be considered by the University in accordance with law.

With the aforesaid observations/directions this application is disposed of.

9. Application disposed of.