
(2014) 03 JH CK 0090
In the Jharkhand High Court
Case No : W.P. (S) No. 4457 of 2013

Prabhudan Tirkey

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-03-2014

Acts Referred:

Citation : (2014) 2 JLJR 210

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : R.P. Gupta, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

Aparesh Kumar Singh, J.—According to these petitioners, they have retired from the Non-Government recognized Aided Minority Schools in the district of Simdega from the post of Assistant Teacher. The name of petitioners, name of Schools and their respective dates of retirement as furnished in a chart by the learned counsel for the petitioners is indicated herein under:--

2. According to these petitioners, their only grievance is that leave encashment amount for the period of earned leave they had earned in their favour in their service career, have not been paid by the respondents on the plea that the same is inadmissible to them in view of a circular dated 29.6.1983 issued by the erstwhile Government of Bihar. These petitioners have otherwise received rest of the post retirement dues.

3. Learned counsel for the petitioners submits that the issue relating to admissibility of leave encashment amount of such retired teachers of Non-Government recognized Aided Minority High Schools have been finally determined by the judgment rendered in the case of Mariyam Tirkey Vs. The State of Jharkhand and Others, and its analogous cases vide judgment dated 3.1.2014 by the Division Bench of this Court. It is submitted that the said resolution has been considered by the Division Bench of this Court. In the said

judgment reference made by the learned Single Bench has been answered by holding that such Assistant Teacher whose services were approved and who were receiving salary etc. by way of grant in aid from the State Government during their service career are also entitled for the payment of leave encashment amount upon their retirement apart from post retirement benefits. In some of these cases, counter affidavit has been filed by the respondents while in other cases, no counter affidavit could be filed as some of them have been filed only recently. The stand in one of the writ petition i.e. W.P. (S) No. 4457 of 2013 by the respondent No. 2, District Superintendent of Education, Simdega is based upon the circular of 29.6.1983 and further 20.2.1990. As per the stand of the respondents, the petitioners in the said cases are not entitled for the benefit of leave encashment in view of the import of the said circular.

4. I have (sic--heard?) learned counsel for the parties and having gone through the relevant materials on record. It is not in dispute that the question relating to admissibility of the leave encashment amount to such employees/teachers, who have retired from Non-Government recognized Aided Minority Schools is no longer res integra in view of the judgment rendered by the Division Bench of this Court in the case of Mariyam Tirkey (supra). Both the circulars dated 29.6.1983 and 20.2.1990 were also considered by the learned Division Bench of this Court while holding admissibility of such leave encashment amount to such employees/teachers of aided minority schools whose services have been approved and who are being paid salary etc from grant in aid received by the State Government.

5. In the aforesaid facts and circumstances of the case, instead of keeping these writ petitions pending, they are, accordingly, disposed of by allowing the individual petitioners to approach the concerned respondent i.e. the District Superintendent of Education, Simdega for redressal of their grievances relating to payment of admissible leave encashment amount by making a fresh representation duly supported with necessary facts and documents and the judgment they have relied upon within a period of three weeks. On receipt of such individual representations, the respondent No. 2, District Superintendent of Education, Simdega shall consider the same in accordance with law and after due scrutiny of the relevant records of individual petitioners and also taking into account the judgment relied upon by them rendered in the case of Mariyam Tirkey (supra) take an informed decision in the matter after considering whether services of these petitioners were approved by the State Authorities and whether they were being paid their salary and other emoluments including post retirement benefits by the State Authorities or not.

6. Let such decision be taken within a period of 12 weeks from the date of receipt of individual representations alongwith a copy of this Order, which shall also be communicated to the individual petitioners.

7. Dependant upon such decision, if requisition is required to be made, the same be made for release of fund to the concerned Directorate under the Department of Human Resources Development Department, Government of Jharkhand, for

consideration and release of fund without any delay.

8. Needless to say, if such admissible dues of the petitioners on leave encashment amount are found to be payable, the same shaft be released within a reasonable time. Accordingly, these writ petitions are disposed of in the aforesaid manner.