
(2005) 07 JH CK 0039
In the Jharkhand High Court
Case No : WP (S) No. 5497 of 2004

Prof. (Dr) Jawed Ahmad and Others	Vs	APPELLANT
State of Jharkhand and Others		RESPONDENT

Date of Decision : 20-07-2005

Acts Referred:

Bihar State Universities Rules — Rule 31

Citation : (2005) 4 JCR 175a

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : A Allam, A.K. Mehta, for the Appellant; Sheela Prasad, G.P. IV, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—This writ petition has been preferred by the petitioners against the order contained in letter No. 307 dated 24th February, 2004, issued under the signature of the Deputy Secretary, Human Resources Development Department, Government of Jharkhand. By the said order, the respondent-State has directed the authorities to fix the pay of principals of different University-Colleges in the UGC pay scale of Principal, provisionally.

2. According to petitioner, they were appointed as Lecturer of different colleges on the recommendation of Bihar State Universities Commission ("Commission" for short). 1st petitioner was appointed on 24th July, 1972; 2nd petitioner on 17th April, 1972 and the 3rd petitioner on 9th June, 1972. Subsequently, taking into consideration their service records, performance and experience, their cases were recommended by the Commission and they were promoted to the rank of Reader from different dates. The 1st petitioner was promoted as Reader w.e.f. 1st June, 1989; 2nd petitioner w.e.f. 1st February, 1985 and 3rd petitioner w.e.f. 1st February, 1985. Thereafter, they were also allowed the benefit of time bound promotion to the next higher grade of Professor from different dates.

3. It appears that the petitioners subsequently applied for their appointment to the posts of Principal and having been selected, they were appointed as Principal in different colleges. Even after their appointment, they were paid salary in the scale of Professor, till the impugned letter was issued on 24th February, 2004 and their salary was reduced in the lower scale.

4. One of the grounds taken by the petitioners is that the impugned letter dated 24th February, 2004 has been issued by the respondents without any notice to them. The other ground taken by the petitioners is that they having been granted time bound promotion to the higher grade of Professor, the posts of Professor being fitter post for appointment of Principal, their salary cannot be downgraded.

5. From the Notification bearing Memo No. B/8074/8167 dated 12th November, 1994 (Annexure-2), it appears that the petitioners were granted time bound promotion to the higher posts of Professor on provisional basis. Thereafter, on the recommendation of the Commission the University granted them regular time bound promotion to the posts of Professor vide Memo No. B-2241- 53 dated 1st October, 1999.

6. The only plea taken by the University is that it has not reduced the pay of its own but because of the impugned letter dated 24th February, 2004 issued by the State of Jharkhand.

7. Counsel for the State submitted that the petitioners having been appointed to the posts of Principal in pursuance of an advertisement, their pay is to be fixed in the scale of Principal, which is lower than the pay of Professor, which they were receiving.

8. Counsel for the petitioners relied on Rule 31(d) of the Statute, framed under Bihar State Universities Act, 1976 and submitted that even after their appointment as Principal, they can be allowed to continue to receive salary in the scale of pay of University-Professor.

9. In the present case, it has not been disputed that the petitioners were granted time bound promotion to the post of Professor after recommendation of the Commission and were provided such higher scale. It has not been disputed that the impugned letter dated 24th February, 2004 was issued by the State Government reducing their scale of pay without notice to the petitioners. It has also not been mentioned as to how the pay of the petitioners can be fixed in the lower scale of pay, who were already receiving salary in the higher scale of pay in the fitter posts.

10. In the facts and circumstances and as the impugned order has been issued in violation of rules of natural justice, it cannot be upheld. The letter dated 24th February, 2004 is, accordingly, set-aside with direction to the respondents to fix the pay of petitioners, in accordance with law taking into consideration the salary they were receiving as Professor. If so necessary, they be given pay protection.

Till any final decision is taken by the competent authority, the petitioners will draw their salary in the UGC scale of Professor, subject to final fixation as may be made.

11. The writ petition is allowed, with the aforesaid observations.

12. However, in the facts and circumstances, there shall be no order as to Costs.