
(2005) 06 JH CK 0004
In the Jharkhand High Court
Case No : CWJC No. 634 of 2000 (R)

Rameshwar Singh and Others

APPELLANT

Vs

State of Bihar (Now Jharkhand) and Others

RESPONDENT

Date of Decision : 20-06-2005

Acts Referred:

Citation : (2005) 4 JCR 259

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

Bench : Single Bench

Advocate : M.M. Pal, I. Bhadani and Suman Kumar Gupta, for the Appellant;
Deepak K. Prasad, J.C. to A.A.G., for the Respondent

Judgement

S.J. Mukhopadhaya, J.—This writ application has been preferred by the petitioners for a direction on the respondents to consider their cases for grant of 1st and 2nd time bound promotion on and from the date they have completed 10th year and 25th year of their service. Further prayer has been made to direct the respondents to provide them the consequential benefits.

2. According to the petitioners, they were initially appointed as Laboratory Assistant in Bihar Institute of Technology (hereinafter to be referred as "BIT"), Sindri. The post of Lab. Assistant was later on designated as Demonstrator in the year, 1973. While the 1st petitioner, namely, Rameshwar Singh, was appointed as Lab. Assistant on 15th November, 1965, 2nd petitioner, namely, Anant Deo Mistry, was appointed on 11th October, 1976, 3rd petitioner, namely, Banaras Prasad Sinha, was appointed in the year, 1967 and 4th petitioner, namely, Shailesh Kumar Verma, was appointed in the year, 1966. All of them were designated as Demonstrator in the same scale of pay in the year, 1973.

Further case of the petitioners is that the State Government by its resolution No. 10770, dated 31st December, 1981 decided to grant at least two promotions during the service career. It was further decided that in case a person is not given one promotion within ten years of this service, in absence of any vacancy,

in such case he will be granted next higher scale on completion of 10th year of service, provided he is otherwise eligible and fit for promotion. Similarly, if an employee has not been allowed 2nd promotion during his service career, because of non-availability of post, though such employee is eligible and otherwise fit for promotion, then in that case, he will be granted 2nd time bound promotion in the 2nd next higher grade on completion of 25th year of service. The resolution aforesaid was given effect from 1st April, 1981.

3. According to the petitioners, similarly situated Lab-Assistants, who were also appointed in other Engineering Colleges, such as, Muzaffarpur Institute of Technology (MIT), Muzaffarpur, Bhagalpur College of Engineering (B.C.E.), Bhagalpur and Bihar College of Engineering (BCE), Patna, and made Demonstrators with effect from 1st April, 1973, have been provided with the said benefits. However, the benefit of age of superannuation to that of a teaching employee was not allowed to them. In such a situation, some of the Demonstrators moved before Patna High Court vide CWJC No. 228 of 1983, Sundeshwari Prasad Singh and Ors. v. The State of Bihar and Ors. A Division Bench of Patna High Court vide its judgment dated 25th June, 1996 directed the State Government to treat the petitioners of the said case at par with the Demonstrator of Bihar College of Engineering, Patna, in the matter of age of superannuation and to give them the consequential benefits. Further case of the petitioners is that when the benefit of time bound promotion was not allowed, the matter was agitated by others before the competent authority. The State of Bihar from its Human Resources Development Department vide resolution, circulated vide Memo No. 80, dated 11th January, 1991 decided to provide them the benefits of time bound promotions, if so entitled. It is further alleged that the similarly situated Demonstrator posted in the Bihar College of Engineering, Patna, have been granted the benefits of time bound promotions vide different orders, in pursuance of the order, contained in letter No. 379, dated 16th February, 1990.

4. The grievance of the petitioners is that inspite of their repeated representations, made before the Secretary, Science & Technology Department, Government of Bihar, including the letter dated 28th January, 2000, neither any step has been taken nor any benefit has been provided to them.

5. Learned counsel for the petitioners submitted that even the State Government employees have been provided with such benefits i.e., two promotions during the service career and for that, in absence of higher post, it has been decided to grant two time bound promotions; first on completion of 10 years of service and second on completion of 25 years of service, at least with effect from 1st April, 1981 i.e., from the date resolution dated 31st December, 1981 came into force. It has been further submitted that even recently the State Government has come with the scheme for grant of benefits of at least two promotions, known as Assured Career Progression scheme.

6. Mr. Mehta, learned counsel for the State of Jharkhand has submitted that the

petitioners are not guided by Resolution No. 10770, dated 31st December, 1981 as they are not getting salary in the revised scale of pay in pursuance of the State Government resolution but are getting their salary in the UGC scale of pay as per the decision, contained in Letter No. 3421, dated 15th July, 1987. It is stated that the petitioners were provided with the then scale of UGC i.e., Rs. 500-900 in pursuance of letter No. 3421, dated 15th July, 1987.

7. From the writ petition and the pleadings, made by the parties, it appears that the UGC scale of pay was made effective from a later date i.e., sometime in the year, 1987. There is nothing on the record to suggest that UGC scale was provided to the petitioners or other prior to the said order. If that be the position, and the petitioners were getting the salary as per Resolution No. 10770, dated 31st December, 1981 with effect from 1st April, 1981, I find no ground to be made out by the respondents to discriminate the petitioners in the matter of time bound promotions. Further, if the benefit of time bound promotion has been given to the other State Government employees, including the Demonstrators of Bihar College of Engineering, Patna, it is not clear why such benefits have not been given to the petitioners.

8. In the circumstances, as the matter requires consideration by the authorities, the case is remitted to the Secretary, Science & Technology Department, Government of Jharkhand, who will take up the case of individual petitioner and will decide whether the petitioners or any one of them are/is entitled or fit for grant of 1st and/or 2nd time bound promotion with effect from 1st April, 1981 on completion of ten years and 25 years of service or 1st April, 1981, whichever is later. It is expected that the authority will take a decision in this regard at an early date, preferably within three months from the date of representation(s), so made by the petitioner(s).

9. This writ petition is, accordingly, allowed with the aforesaid observations and directions. However, there will be no order as to costs.