

(2007) 02 PAT CK 0084

In the Patna High Court

Case No : C.W.J.C. No's. 5253, 5275, 5278, 5283, 5360, 5361, 5362, 5591, 5597, 5599, 5606, 5618, 5620, 5630, 5664, 5823, 5826, 5828, 5829, 5836, 5845, 5859, 5901, 5978, 6013, 6025, 6026, 6028, 6030, 6031, 6032, 6044, 6046, 6070, 6962, 6985, 7083, 7253, 7261, 7277,

Ravi Shanker and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-02-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 2 BLJR 1727 : (2007) PLJR 337 Supp

Hon'ble Judges : J.N. Bhatt, C.J

Bench : Single Bench

Advocate : Abhay Kumar Singh and Ganesh Prasad Singh, Binod Kumar and Awadhesh Kumar Mishra, for the Appellant; P.K. Shahi, A.G., Prabhakar Tekriwal, Prabhat Kumar Singh, S.S. Mishra, J.C. to G.A.V., for the Respondent

Final Decision : Allowed

Judgement

J.N. Bhatt, C.J.—This group of 176 writ petitions by invocation of provisions of Article 226 of the Constitution of India raises virtually, similar and identical issue of teaching and non-teaching staff of elementary schools of the Government of Bihar.

2. The petitioners have been claiming difference of cost of living allowances from 1.4.1983 till date or till retirement, as the case may be. So the main point in focus in this group of petitions has been whether to pay cost of living allowances from 1.4.1983 and to make payment of salary and other allowances inclusive of cost of living allowances from 1.1.1970 till date or till retirement of the employees?

3. So far as the period of claim of difference of allowances, as well as, payment of salary and other allowances including cost of living allowances is concerned, it varies in these petitions.

4. Learned Counsel for the petitioners during the course of submissions have taken this Court through the relevant provisions, as well as, the material facts emerging from the record of this group of petitions. It is evident that all the petitioners, who have been teaching or non-teaching staff of the elementary schools, are claiming the benefit of the Government's benevolent schemes, as well as, the provisions made in the relevant law.

5. It appears that in some of the cases, the petitioners have been moving the respondent authorities for their alleged entitled claim for difference of cost of living allowances, as well as, in some of the cases, payment of salary and other allowances from varied dates, unsuccessfully. Some of the requests have been turned down. It is in these contexts, after being victims of running from pillar to post for the alleged claim of entitlement as employees, as teaching or non-teaching staff, as a measure of the last resort, they have knocked the door of justice by filing this group of writ petitions.

6. It be noted that during course of hearing before conclusion, there has been consensus and upon consensual statement of the counsels made on behalf of the parties, following directions are issued:

(i) that the Commissioner-cum-Secretary of Department of Human Resources and Development, Government of Bihar, is directed to constitute a committee of not less than three officers, who shall not be below the rank of Deputy Secretary/ Deputy Director, Human Resources Development Department, within a period of two months from today to undergo the exercise which is enumerated hereinafter;

(ii) The Committee that may be appointed or the Committee to be appointed in terms of the direction No. (i) above, will scrutinize, screen and examine the individual claim made by the petitioners so as to appreciate and reach to the conclusion as to whether they are rightful persons to claim the entitlement allegedly made in the petition. Thus, the screening process has to be regular and systematic so that the record may be prepared and examined in future, if need be;

(iii) The Committee, obviously, shall be obliged to give an opportunity of hearing to the petitioners by issuing a public notice in any of the newspapers having wider circulations in the State of Bihar, well in advance, but the period shall not be, in any, case, less than 15 days;

(iv) The learned Advocate General with his candour has, rightly, made a statement before the court that common counter affidavit and reply filed on behalf of the respondents authorities, while screening, scrutinizing and finalizing the case of the petitioners, shall not be a hindrance and, therefore it is directed that the committee shall take decision of its own on the merit of the case and in accordance with rules and regulations and relevant provisions of law irrespective of the stand taken in the counter affidavit and reply on behalf of the respondents as factual profile may differ from case to case. We appreciate this gesture of the learned Advocate General;

(v) After constitution and formation of the committee, as directed above, the process shall be started and publication of the advertisement, as stated above, will be issued and within six months, after expiry of the notice period published in the advertisement, the committee is directed to examine the cases, screen them, scrutinize them in the light of the relevant provisions and rules and regulations, circulars, etc. in the factual profile of each case and decide each case, as expeditiously, as possible preferably within six months from the date of exercise of scrutiny;

(vi) In view of the report of the committee, after scrutinizing, and screening the claims made in the petition by different petitions, if the committee reaches to a conclusion that the petitioners all or some of them are entitled to reliefs or benefits as prayed for, the same shall be granted and given to them within a period of two months thereafter

(vii) In the event of any clarification or modification, liberty is reserved and any concerned party would be at liberty to move this Court by appropriate method under the rules, if need be.

7. With these observations and aforesaid directions and discussions, this group of 176 cases under Article 226 of the Constitution of India, shall stand disposed of. The petitions shall, accordingly, stand allowed, partly, without there being any order to costs. This Court hopes and trusts that the spirit with which, upon consensus, directions have been issued, shall be scrupulously, followed so as to see that justice is rendered to the deserving candidates and the petitioners.

8. Let a copy of this order be given to the learned Counsel for the State for needful.