

(2016) 09 JH CK 0008
In the Jharkhand High Court
Case No : W.P (S) No. 2681 of 2015

Sanjay Thakur

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 05-09-2016

Acts Referred:

Citation : (2016) 4 JCR 750

Hon'ble Judges : Mr. H.C. Mishra, J.

Bench : Single Bench

Advocate : Mr. Dhananjay Kumar Dubey and Mr. Saurav Arun, Advocates, for the Respondents; Mr. Ranjan Kumar Singh, Advocate, for the Petitioner

Final Decision : Disposed Off

Judgement

Mr. H.C. Mishra, J. - Heard learned counsel for the petitioner and the learned counsel for the State, as also learned counsel for the Jharkhand Education Project Council, Ranchi.

2. The petitioner was appointed as Block Resource Person pursuant to the scheme of the State Government for promoting the education programmes up-to the block level, under the Sarva Shiksha Abhiyan.

3. It is the case of the petitioner that the petitioner was being paid his honorarium, but during the financial year 2010-2011, he was not paid his honorarium from the month of December 2010 to March 2011, in the Financial Year 2011-2012, he was not paid his honorarium for the period from January 2012 to March 2012 and in the Financial Year 2012-2013, the petitioner was not paid his honorarium for the month of March 2013, which in all comes to Rs.66,000/-. The petitioner is still continuing in his service.

4. It is an admitted fact that the selection of the Block Resource Person and the Cluster Resource Person are made by the concerned District Superintendent of Education, being the District Programme Officer under the Jharkhand Education Project.

5. A counter affidavit was filed by the District Superintendent of Education, Godda, bringing on record a letter No. 873 dated 10.8.2015 as Annexure-C to the counter affidavit, which shows that after filing of the writ application, the respondent No.5, the District Superintendent of Education-cum-District Programme Officer, Jharkhand Education Project, Godda, has written a letter to the respondent No.2, the Director, Jharkhand Education Project Council, Ranchi, mentioning the aforesaid periods, for which, the honorarium was not paid to the petitioner. It is stated that Rs.66,000/- is due to the petitioner as arrears of his honorarium, seeking guidelines from the respondent No.2, the Director, Jharkhand Education Project Council, for making payment of the arrears of honorarium to the petitioner.

6. Taking into consideration this letter, by order dated 27.6.2016 this Court directed that since the letter as contained in Annexure-C to the counter affidavit shows that the claim of the petitioner is genuine for payment of Rs.66,000/- as arrears of his honorarium, one fails to understand that what guidelines has to be sought for from the Jharkhand Education Project Council for making payment to the petitioner and at the request of the learned counsel for the State, the matter was directed to be posted on 22.8.2016, by which date it was expected that the final order for making payment of the arrears of the honorarium to the petitioner shall be passed after complying with all the procedures, failing which, adverse view may be taken against the erring respondent.

7. Pursuant to the order dated 27.6.2016 passed by this Court, a supplementary counter affidavit has been by the District Superintendent of Education, Godda. In the said supplementary counter affidavit also, a letter No.973 dated 02.08.2016 issued by the District Superintendent of Education-cum-District Programme Officer, Godda, has been brought on record as Annexure-C, in which again it is stated that by letter No. 873 dated 10.08.2015 the guidelines were sought for making payment of the arrears of the honorarium. Pursuant thereto, by letter No.1727 dated 01.09.2015 and letter No.1283 dated 28.06.2016, further details were sought for, which have also been furnished through letter No. 912 dated 25.07.2016, but the guidelines had not been received. Accordingly, the guidelines were again sought for making the payment of the arrears of the honorarium to the petitioner.

8. Learned counsel for the petitioner has submitted that the petitioner was appointed as Block Resource Person by the respondent No.5, District Superintendent of Education, Godda, and he was being paid his honorarium. It is also submitted by the learned counsel for the petitioner that the petitioner is still working and also getting his honorarium, but he has not been paid his honorarium only for the aforesaid periods and the amount comes to Rs.66,000/- only, for which, only the letters are being written by the respondent No.5 to the respondent No.2 seeking guidelines. It is submitted by learned counsel, that since the claim of the petitioner is admitted by the respondent No.5, there can be no reason as to why the payment has not been made to the petitioner.

9. Learned counsel for the State has opposed the prayer and has drawn the attention of this Court towards the letter No. 607 dated 10.6.2008 issued by the respondent No.2, the Director, Jharkhand Education Project Council, Ranchi, which shows that in each block, only twenty Resource Persons could be appointed. It is submitted by the learned counsel for the State that due to the appointment of the petitioner in excess of the sanctioned strength, the payment of arrears of some periods could not be made to the petitioner. One letter bearing No. 1255 dated 26.6.2012 issued by the respondent No.2, the Principal Secretary cum the Director, Jharkhand Education Project Council, has also been brought on record, which shows that in case, one in one block the Resource Persons are found to be in excess, they may be adjusted in another block, where there may be lesser number of Resource persons.

10. Learned counsel for the Jharkhand Education Project Council submitted that the payments have already been released by the Jharkhand Education Project Council in all the financial years as per the budget. Learned counsel for the respondent No.2 has also pointed out from Annexure-B to the supplementary counter affidavit, filed by the District Superintendent of Education, Godda, which is a letter No.912 dated 25.7.2016 written by the District Superintendent of Education-cum-District Programme Officer, Godda, showing that the payment could not be made to the petitioner due to the appointment of Block Resource person in excess than the allotted budget.

11. Having heard the learned counsels for the parties and upon going through the record, I find that there is no denial to the fact that the petitioner was appointed as Block Resource Person by the respondent No.5, District Superintendent of Education-cum-District Programme officer, Jharkhand Education Project, Godda. There is no denial to the fact that the petitioner is also continuing his service. The fact remains that the petitioner has not been paid his honorarium only for the certain periods as indicated in paragraph 3 above, for which the total amount comes to Rs.66,000/- and for the rest of the periods, the payment of honorarium has been made to the petitioner. Though the letter dated 25.7.2016 brought on record as Annexure-B to the supplementary counter affidavit, shows that the payment could not be made to the petitioner due to the excess hands than the allotted budget, but the fact remains that the respondent State has also brought on record the letter No. 1255 dated 26.6.2012 which shows that in case it is found that the Block Resource Persons are working in excess to the strength, they may be adjusted in other blocks. This clearly shows that even if for some period, the petitioner was found to be in excess than the strength as per the allotted budget, he could have been adjusted in other block and if that was not done, the petitioner cannot be blamed for the same.

12. The facts remains that the petitioner has not yet been paid the arrears of his honorarium, in spite of the fact that work has been taken from the petitioner and also in spite of the order dated 27.6.2016 passed by this Court, whereby, it was made clear that since the due payment of the petitioner is admitted by the

respondents, the same shall be made, failing which, adverse orders may be passed against the concerned respondent. Even pursuant to the aforesaid order, the supplementary counter affidavit shows that only the guidelines are being sought for, without making the payment of the admitted dues to the petitioner, with which, the petitioner is not at all concerned. The petitioner cannot be held to be responsible for the fact that only for the periods as indicated in paragraph 3 above, the petitioner was found to be in excess than the strength as per the allotted budget, but he was not adjusted in other block in spite of the clear directions to that effect.

13. In view of the aforementioned discussions, this Court has no option but to direct the respondent authorities, particularly the respondent No.5, the District Superintendent of Education-cum-District Programme Officer, Jharkhand Education Project, Godda, to ensure that the final payment of the arrear of honorarium of the petitioner is made positively within the period of six weeks from the date of production/communication of this Order, completing all due process within the same period. It is directed that the respondent No.5, the District Superintendent of Education-cum-District Programme Officer, Godda shall not draw his salary also, unless the order of this Court is complied with and the payment of arrears of the honorarium is actually made to the petitioner.

14. Let a copy of this order be sent to the Deputy Commissioner, Godda, who is also the Chairman of Sarva Shiksha Abhiyan, as also the District Treasury Officer, by virtue of his post, to ensure that the payment of salary of the respondent No.5 for the month of September, 2016 and onwards shall not be made, unless it is certified by him that he has already complied with the Order of this Court.

15. This writ application is accordingly, disposed of with the directions as above.

16. Let a copy of this order be also given to the learned counsel for the State for the needful.