
(2009) 01 JH CK 0065
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5700 of 2005

Sarita Kumari

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 09-01-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2009) 57 BLJR 938

Hon'ble Judges : Ajit Kumar Sinha, J

Bench : Single Bench

Advocate : Bhanu Kumar, for the Appellant; Baleshwar Yadav, J.C. to S.C. (Mines), for the Respondent

Judgement

Ajit Kumar Sinha, J.—The present writ petition has been preferred for issuance of a writ in the nature of certiorari for quashing the impugned order contained in letter No. 1533 dated 4.6.2005 and letter No. 1675 dated 15.6.2005 issued by the Director, Secondary Education, Government of Jharkhand, Ranchi vide which the basic pay scale of the petitioners, who are Laboratory Assistants, working under the Vocational Education Stream at +2 Level has been reduced from Rs. 5,000-8,000/- to Rs. 4,500-7,000/- and further for recovery of excess amount received on the basis of the pay scale of Rs. 5,000-8,000/- sought to be realized in 12 instalments.

The facts in brief are set out as under:

2. The petitioners upon selection were appointed as Laboratory Assistants on 15.7.1993 and as per Resolution No. 660(F/2) dated 8.2.1999 their pay scale were revised in the pay scale of Rs. 5,000-8,000/-. According to the petitioners pursuant to the Resolution of the State of Jharkhand, Government of Jharkhand extended the Vocational Education Stream from time to time and the same was transferred from Plan Head to Non-Plan Head and finally on 23.11.2004 the Government of Jharkhand granted permanent status to the Vocational Education Stream running in the fifty seven +2 schools which according to them stipulates

the pay scale as Rs. 5,000-8,000/-.

3. The petitioners basic pay scale was directed to be reduced from Rs. 5,000-8,000/- to Rs. 4,500-7,000/- vide impugned order dated 4.6.2005 and it was also directed vide letter dated 15.6.2005 to realize the excess amount drawn in 12 equal instalments and the same is sought to be challenged in the present writ petition.

4. The main contention raised by the petitioners is that the reduction of basic pay scale of the petitioner is punitive in nature and involved civil consequences and as such the principles of natural justice ought to have been followed. It has also been contended that the action of the respondents lacks fair play and is on the face of it arbitrary, illegal and violative of Article 14 and 16 of the Constitution of India.

5. It has also been submitted by the counsel for the petitioners that the reduction of pay scale have been issued without obtaining the sanction of the Government and this amounts to insubordination by the Directorate and it is a glaring case of non application of mind.

6. In reply the respondents have submitted that the minimum qualification fixed for the post of Library Assistants was Intermediate Arts, Science and Commerce along with Experience in concerned Trades from recognized Institution of the State / Central Government. It is also contended that no pay scale for the post of Library Assistants was mentioned and they were appointed in different trades by the Director Secondary Education in the pay scale of Rs. 1,400-2,600/-.

7. It has further been contended that upon audit inspection the irregularities in pay fixation was reported and objections were raised in view of the Finance Department's letter No. 6288 dated 1.9.2000. According to Finance Department's letter the pay scale of Library Assistants was fixed at Rs. 5,000-150-8,000/- subject to the condition that the recruitment was made on the basis of B.Sc. and Diploma Certificates and in absence of the same the admissible scale was Rs. 4,500-125-7,000/-.

8. It has also been submitted by the respondents that the petitioner herself admitted that she had passed M.A. examination in Home Science and thus she does not possess the requisite qualification prescribed in accordance with the Finance Department's letter and accordingly all the concerned departments were directed to act accordingly as per letter No. 6288 dated 1.9.2000 and to fix the pay scale of the petitioner to Rs. 4,500-7,000/-.

9. I have considered the rival contention of the parties and also the pleadings. The admitted fact remains that the order is on the face of it punitive in nature involving civil consequences and thus it had to mandatorily comply with the cardinal principles of natural justice.

10. In the instant case neither any show-cause notice was issued nor any explanation was called for even with regard to qualification or for that matter as

to their eligibility and in that background the impugned order as contained in letter No. 1533 dated 4.6.2005 and letter No. 1675 dated 15.6.2005 issued by the Director, Secondary Education, Government of Jharkhand, Ranchi is on the face of it arbitrary, illegal and against the well settled cardinal principles of natural justice and thus violative of Article 14 and 16 of the Constitution of India and is accordingly quashed.

11. This writ petition is allowed without any order as to costs and the impugned letters/order dated 4.6.05 and 15.6.05 are accordingly quashed.

12. It goes without saying that the respondents are certainly at liberty to initiate proceedings after compliance of the principles of natural justice in case the petitioners were not entitled to the pay scale of Rs. 5,000-150-8,000/-.