

(2022) 02 JH CK 0040

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4335 Of 2019

Satish Kumar Sinha APPELLANT @Hash State Of Jharkhand And Others

Date of Decision : 24-02-2022

Acts Referred:

Citation : (2022) 02 JH CK 0040

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Purnendu Sharan, Ankit Sinha

Final Decision : Disposed Of

Judgement

Anubha Rawat Choudhary, J

1. Learned counsel for the petitioner Mr. Purnendu Sharan is present.
2. Learned counsel for the respondents Mr. Ankit Sinha is also present.
3. Learned counsel for the petitioner seeks permission to add District Superintendent of Education, Palamau as respondent no. 5. He submits that he is a necessary party as the necessary sanction for release of the amount involved in the present case was issued by the said authority.
4. Learned counsel for the respondents has no serious objection to the prayer made.
5. Accordingly, District Superintendent of Education, Palamau is permitted to be added as respondent no. 5 in the writ records.
6. Office is directed to carry out the necessary amendment in the cause title in red ink.
7. With the consent of the parties, this writ petition is taken up for final disposal.
8. This writ petition has been filed for issuance of writ/writs, order /orders, direction/directions, which are quoted as under: -

“(a) Writ especially in nature of mandamus commanding upon the respondents

especially respondent Nos. 3 and 4 for making payment of leave encashment to her in view of the fact that she got superannuated long back on 31.08.2009 from the post of Teacher, Govt. Middle school, Kund Nagarplaika Anchal, Daltonganj and District Superintendent of Education, Palamu after according sanction had even directed the Headmaster-Cum-drawing Disbursement Officer, Govt. Middle School, Kund Nagarpalika, Daltonganj Circle vide order dated 17.09.2010 to withdraw the same including permissible dearness allowance also to be paid on it and thereafter making payment of the same to this petitioner through Bank draft but despite that she has not been paid the amount of leave Encashment even till date.

(b) Also prays for direction upon the respondent to give the petitioner the pay scale of Matric Trained Selection Grade as well as Graduate Trained Pay Scale which she was entitled of in light of the fact that she was possessing the qualification of the B.A. trained at the time of her appointment itself which is evident from her service book.

(C) Also prays for direction upon the respondent to give her annual increment as per the circular issued by the Principal Secretary of Finance Department, Govt. of Jharkhand in the year 2009 as the promotion of the Petitioner was due and she was entitled for enhancement in the same on 11.03.2006.”

9. The learned counsel for the petitioner submits that the writ petition was originally filed by Nirmala Kumari Sinha and during the pendency of this writ petition, upon her death, I.A. No. 523 of 2021 and her husband namely Satish Kumar Sinha has been substituted who is now the present petitioner before this Court.

10. The learned counsel for the petitioner submits that the necessary sanction for release of the amount involved in this case was issued by District Superintendent of Education as contained in Annexure- 5 and the Respondent no. 4 was directed to disburse the amount to the original petitioner, but in spite of such direction, the amount was never disbursed.

11. At this, learned counsel for the respondents submits that the writ petition may be disposed of with a liberty to the petitioner to file a representation before the newly added respondent no. 5 who shall verify the records and also seek instructions from respondent no. 4 and pass appropriate orders. He submits that if the payment has not been made, then necessary formalities in connection with the sanction which is said to have been granted earlier can be completed by the respondent no. 5 only.

12. After hearing the counsel for the parties, this writ petition is disposed of with a liberty to the petitioner to file a fresh representation before the respondent no. 5 along with a copy of the present writ petition within a period of one month from today. Upon filing of such representation, the respondent no. 5 shall give an opportunity of hearing to the respondent no. 4 as well as to the petitioner to verify as to whether the amount pursuant to the sanction order as contained in

Annexure-5 has been disbursed to the original petitioner or not and in case the amount has not been disbursed to the original petitioner, the Respondent no. 5 shall take appropriate steps to ensure that the payment is made to the petitioner.

13. In case the respondent no. 5 finds that the amount is not payable, he shall pass an appropriate reasoned order to that effect. If the amount is found payable to the petitioner , then the same should be paid within a period of three months from the date of passing the reasoned order.