

(2005) 03 JH CK 0010

In the Jharkhand High Court

Case No : Writ Petition (S) No. 512 of 2003

Shaktinath Jha and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-03-2005

Acts Referred:

Citation : (2005) 106 FLR 343 : (2005) 2 JCR 583

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : A. Allam, Krishna Pandey, for the Appellant; Kundan Kumar Ambastha, JC to SC II, for the Respondent

Judgement

N.N. Tiwari, J.—In this writ application the petitioners, who are the teachers of Government Polytechnics, have prayed for a direction of the respondents for payment of arrears and the difference of the admitted salary in the revised UGC pay scale for the post each of them are holding i.e. Assistant Professor/Associate Professor, with interest on the admissible amount.

2. The case of the petitioners is that the petitioner No. 2 is the Principal of Government Polytechnic, Ranchi and all others are the Associate Professors of Government Polytechnics. They are confirmed teachers of Government Polytechnics getting UGC pay scale. The Government of Bihar, Department of Science and Technology, by its letter No. JA-3/89-90-379, dated 16.2.1990 made provision for payment of salary in the revised UGC pay scale with promotional provisions to the teachers of Government Polytechnics along with the teachers of other technical institutes. The said letter has been annexed as Annexure-2 to this writ application. The grievance of the petitioners is that though the provision was made for payment of revised UGC pay scale with effect from 1.1.1986, yet the same has not been paid to the petitioners. The petitioners have also given detail of the arrears claimed by them. According to the petitioners, they filed several representations before the competent authorities, but the same were not heeded upon.

3. Counter affidavits have been filed on behalf of the State of Jharkhand as well as by the State of Bihar. The respondents have taken the stand that the petitioners claim is not at all sustainable as the basis of the petitioners claim is the letter Annexure-2 wherein it was clearly provided that the benefit of the revised scale would be admissible with effect from 1.4.1973, but the pecuniary benefit shall accrue to the petitioners only with effect from 1.4.1978. Further, as per Annexure-2 itself, the payment of arrears of salary was to be made with effect from 31.7.1989 and as such the petitioners are not entitled to any arrears of salary for the period between 1.1.1986 to 31.7.1989. The State of Bihar has annexed the letter issued by the Science and Technology Department, Government of Bihar vide Memo No. 7/90, dated 14.11.2002 with their counter affidavit, in support of the said stand. From perusal of the said letter it appears that the teachers of some of the institutes, who were also covered by Annexure-2, have been given revised scale with effect from 1.1.1988. In the said letter it appears that the said decision was taken by the State Government after due consultations. From perusal of the said letter it is apparent that the said benefits were made applicable for the teachers of the institutes mentioned in the said letter Annexure-A and thereby a class has been arbitrarily created from amongst the teachers who were covered by Annexure-2, without any reasonable or rational basis. Counter affidavit filed by the respondents is silent regarding the said limited and discriminatory application of Annexure-A by which benefit has been given to some of the similarly situated teachers by allowing revised scale w.e.f. 1.1.1988. Learned counsel appearing on behalf of the respondents also could not give any satisfactory explanation for the said discrimination.

4. In that view, I am of the opinion that the petitioners have been arbitrarily discriminated against by not paying to them the revised scale at least with effect from 1.1.1988, the date from which the other teachers, covered by Annexure-2, have been given the benefit of the revised scale. If some of the teachers, who were also covered by Annexure-2, have already been paid the benefit of the revised scale with effect from 1.1.1988, there is no reason why the petitioners be denied the said benefit.

5. The petitioners are now the teachers of the Government Polytechnics of the State of Jharkhand. In that view, the respondent No. 2 in consultation with the respondent No. 4, will work out the arrears of the petitioners on revised scale w.e.f. 1.1.1988 and pass an appropriate order for payment of the same to the petitioners within a period of six months from the date of receipt/production of a copy of this order. It is made clear that the petitioners will be also entitled to other benefits, admissible to the similarly situated teachers/employees.

6. With the above direction/observation this writ application is disposed of.