
(2022) 03 JH CK 0073
In the Jharkhand High Court
Case No : Writ Petition (S) No.3543 Of 2022

Shibu Murmu

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 09-03-2022

Acts Referred:

Citation : (2022) 03 JH CK 0073

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Ram Lakhan Yadav, Rakesh Roy

Final Decision : Disposed Of

Judgement

Anubha Rawat Choudhary, J

1. Heard Mr. Ram Lakhan Yadav, learned counsel appearing on behalf of the petitioner.
2. Heard Mr. Rakesh Roy, learned counsel appearing on behalf of the respondents.
3. This writ petition has been filed for the following reliefs:

"That by way of this writ application, the petitioner who is going to retire from the service in the month of June prays for issuance of an appropriate writ(s)/order(s)/direction(s) to the respondents to grant promotion as headmaster from the date in which juniors were granted -IV scale with effect from 15.06.2002 on completion of 12 years of service in grade-II for subsequent due promotions as per promotions rule 1993, thereafter and for fixation of the corresponding the revised scales with due increments and other suitable and due benefits."

4. The learned counsel for the petitioner submits that the petitioner was appointed as untrained teacher in Primary School, Raidih (Jasidih), Deoghar on 16.10.1973. Subsequently, he was matric trained in the year 1980. He passed I.A. in 1981 and B.A. in the year 1985 and retired on 30.06.2011. The learned

counsel further submits that in the meantime, Bihar (now Jharkhand) Taken Over Elementary School Teachers Promotion Rules, 1993 was made effective from 01.01.1996 and accordingly, he was granted Grade-I with effect from 01.04.1986 vide Order dated 22.07.1988.

5. The learned counsel for the petitioner has referred to the service book and as per the service book the petitioner was granted Grade-II with effect from 21.11.1992 pursuant to a Resolution dated 18.12.1989. The learned counsel submits that the method of preparation of seniority list between arts and science teachers was subject matter of consideration before Hon'ble Patna High Court and certain interim orders were passed. Consequently, for about 10 years no promotion could be made. Ultimately, the Hon'ble Patna High Court passed a judgement in L.P.A. No. 1137 of 1996 with other analogous cases arising out of CWJC No. 10543 of 1995 and the learned counsel for the petitioner has referred to para 8 and 9 of the said judgement. The learned counsel has submitted that although the petitioner was granted Grade-IV B.A. trained scale by virtue of the memo no. 1909 dated 04.09.2010 issued by the Deputy Development Commissioner, Deoghar with the terms and conditions mentioned therein.

6. The learned counsel for the petitioner further submits that a representation as contained in Annexure-3 was filed mentioning therein that the petitioner is not satisfied with the promotion granted and the petitioner is entitled to promotion with retrospective effect as per the timelines prescribed under the 1993 Rules itself. However, no such order has been passed by the District Superintendent of Education, Deoghar on the representation contained in Annexure-3. The learned counsel has also submitted that in the said representation it was also mentioned that the relief which the petitioner was praying for, was granted to similarly situated persons in the district of Dumka and admittedly, the seniority list was prepared pursuant to the order passed by Hon'ble Patna High Court in L.P.A. which is dated 21.04.2009, therefore, the petitioner cannot be discriminated against similarly situated persons from the District of Dumka.

7. The learned counsel for the petitioner has also submitted that even the benefit arising out of Annexure- 4 has not been given to the petitioner.

8. The learned counsel appearing on behalf of the respondents, on the other hand, has submitted that instead of passing any order of promotion in the present proceedings, the matter may be remitted to the respondent no. 2 i.e. the Director of Primary Education, Human Resources Department of Jharkhand, who would be competent to look into the records of Deoghar as well as Dumka and the petitioner may file a fresh representation and his grievances may be considered in accordance with law.

9. After hearing the learned counsel for the parties and considering the facts and circumstances of this case it is apparent from Annexure- 3 that a representation has been filed by the petitioner before the District Superintendent of Education, Deoghar, stating that certain relief has been granted to similarly situated persons

at Dumka and has not been granted to the petitioner. However, no order has been passed on the representation so far as submitted by the learned counsel for the petitioner. Considering the fact that the petitioner is claiming parity with persons from another district, Respondent no. 2 would be the appropriate authority to take a decision with regards to the grievance of the petitioner and take appropriate decision in accordance with law. Accordingly, this writ petition is disposed of with a liberty to the petitioner to file a fresh representation before the Respondent no. 2 along with a copy of this order and the records of the present case within a period of two months from today. Upon filing of such representation, the Respondent no. 2 shall fix a date of hearing for the petitioner and pass a reasoned order in accordance with law considering the rules, regulations guidelines etc. with regard to the grievance of the petitioner within a period of six months thereafter.

10. If the petitioner is entitled to any financial relief arising out of such reasoned order the same be remitted to the petitioner at the earliest in his bank account details of which be provided in the representation itself. The reasoned order is directed to be communicated to the petitioner through speed post at the postal address which may be provided by the petitioner in his representation.

11. This writ petition is disposed of with aforesaid observations and directions.

12. Pending interlocutory application, if any, is closed.