
(2005) 02 JH CK 0089

In the Jharkhand High Court

Case No : Writ Petition (S) No. 487 of 2005

Shiv Nath Choudhary

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-02-2005

Acts Referred:

Bihar Pension Rules, 1950 — Rule 43

Citation : (2005) 02 JH CK 0089

Hon'ble Judges : S.J. Mukhopadhaya, Acting C.J.

Bench : Single Bench

Advocate : A.K. Sinha, Praveen Kr. and M.M. Pan, for the Appellant; Rabindra Prasad, J.C. to Sr. S.C. II, for the Respondent

Judgement

S.J. Mukhopadhaya, A.C.J.

1. According to the petitioner, while he was in the services of the State and posted as Head Master of the State Subsidized (now Nationalised) High School, a departmental proceeding was initiated, vide Memo No. 858 dated 10th August, 2001 by the Director, Secondary Education. Jharkhand. Ranchi.

2. During the pendency of the departmental proceeding, he superannuated from service on 30th April, 2002, after retirement, he having not get the retirement benefit, had to move before this Court in WP (S) No. 591 of 2003 for payment of retiral benefits. The case was disposed of. but payment was not made till Cont. Case (C) No. 436 of 2003 was preferred against the respondents.

3. The grievance of the petitioner is that the respondents thereafter though paid 90% of the Pension and Gratuity, but rest of the 10% of the amount have not been paid. They have also not commuted the pension of the petitioner in view of the pendency of the departmental proceeding.

4. Having heard the counsel for the parties, in the interest of justice, this case is remitted with direction to the respondents, to treat the departmental proceeding as a proceeding initiated under Rule 43(b) of the Bihar Pension Rules, 1950, with

further direction to the Enquiry Officer and the concerned authorities to concluded the departmental proceeding and pass final order, within a period of four months from the date of receipt/production of a copy of this order.

5. The petitioner will produce a copy of this order before the Secretary, Human Resources Development Department, Government of Jharkhand, Ranchi and the Director, Secondary Education, Human Resources Development Department, Jharkhand, Ranchi and the Enquiry officer,

6. The petitioner is directed to cooperate in the departmental proceeding, failing which the respondents will proceed ex parte and pass appropriate order. If Enquiry officer has already submitted the enquiry report then the State of Jharkhand will pass final order under Rule 43(b) of the Pension Rules, Taking into consideration the enquiry report, after supplying a copy of the same to the petitioner.

7. After the final decision is taken under Rule 43(b) of the Pension Rules, the respondents will determine whether the rest of the Pension and Gratuity are to be released, and whether any part of the Pension is to be commuted or not.

8. This will petition stands disposed of with the aforesaid observations and directions. Petition disposed of.