
(2017) 11 JH CK 0008
In the Jharkhand High Court
Case No : 5911 of 2017

Shiv Shankar Thakur

APPELLANT

Vs

The State of Jharkhand and ors.

RESPONDENT

Date of Decision : 06-11-2017

Acts Referred:

Citation : (2017) 11 JH CK 0008

Hon'ble Judges : Dr. S.N. Pathak

Bench : SINGLE BENCH

Advocate : Sunil Singh, ?Srijit Choudhary

Final Decision : Allowed

Judgement

1. The petitioner has approached this court with a prayer for releasing of the salary for the period from August 2015 to till date which has been illegally withheld by the respondent authorities. Further prayer has been made to release the fund of Poshha-Ahaar (Nutrition) of Pipra-Centre as the same has been withheld without any reason.

Factual Matrix:

2. The petitioner was appointed after following the entire procedure of the selection to the post of Anganwari Sevika for Pipra Anganwari Centre in the year 1985. Petitioner started functioning as Anganwari Sevika for Pipra Anganwari Centre. Petitioner was continuing to work and discharge her duty properly and without any hindrance. Subsequently in the year 2015 dispute arose between the petitioner and C.D.P.O Hariharganj with respect to the illegality for release of fund of Poshha-Ahaar (Nutrition) of different centre in Hariharganj Block. Thereafter from August, 2015 the salary of the petitioner and the payments of the vouchers submitted by the petitioner with respect to the Poshha-Ahaar (Nutrition) has not been released by the then C.D.P.O, Hariharganj.

3. It is further case of the petitioner that thereafter she made her application on 04.06.2016 for grant of leave on the ground of her medical treatment, when the leave has not been sanctioned by the then C.D.P.O, Hariharganj, then the petitioner made an application on 06.06.2016 for leave before the District Social Welfare Officer, Medininagar which was considered and the petitioner was granted leave from 06.06.2016 to 11.6.2016. It is the case of the petitioner that she was granted leave for her medical treatment then the C.D.P.O, Hariharganj vide letter no. 87 dated 07.06.2016 made recommendation to the District Social Welfare Officer, Medininagar to relieve the petitioner from the post of Sevika. On the basis of the said recommendation of the C.D.P.O, Hariharganj, the District Social Welfare Officer, Medininagar vide letter no. 1361 dated 30.09.2016 issued direction to the Block Development Officer, Hariharganj to make an enquiry and submit its report within 3 days. Thereafter the Block Development Officer, Hariharganj vide letter no. 750 dated 28.11.2016 submitted its enquiry report with an observation that no illegality has been committed by the petitioner as alleged by the then C.D.P.O, Hariharganj. In spite of the enquiry report holding the petitioner not guilty of the charges, no orders were passed by the respondents for release of the salary of petitioner from August 2015 to till date and as such the present writ petition has been preferred.

4. Mr. Sunil Singh, the learned counsel for the petitioner argues that the respondent authorities have illegally and arbitrarily withheld the salary of the petitioner from August 2015 to till date, the learned counsel argues that the enquiry report furnished by the Block Development Officer, Hariharganj clearly falsifies the allegation made by the C.D.P.O. It has been further argued that C.D.P.O was not having good terms with the petitioner and as such false allegations were leveled against her which is falsified by the enquiry report. The learned counsel further argues that in view of the enquiry report and in view of the fact that the petitioner has not been held guilty of the charges, an order be passed for release of the entire salary of the petitioner from August, 2015 till date.

5. Per contra, no counter-affidavit has been filed. Mrs. Bharti Singh, J.C. to Sr. S.C III vehemently opposes the contention of the learned counsel for the petitioner and argues that as the petitioner

was not present on the centre there is no question of making any payment. She fairly consents on the point that as the matter has been enquired by the Block Development Officer, the same has to be considered by the higher authorities and if the enquiry report is approved by higher/competent authority, the salary of the petitioner will be released in accordance with law.

6. Be that as it may having gone through the rival submissions of the parties this court is of the considered view that case of the petitioner needs consideration. False allegation have been made against the petitioner to deprive her of the salary and the same is falsified by the enquiry report of the Block

Development Officer. The District Social Welfare Officer has himself recommended the enquiry to be conducted by the Block Development Officer, the same was conducted and found that petitioner is not guilty of the charges and hence the charges were fully falsified. In absence of any charge the petitioner is entitled for salary of the entire period i.e. August, 2015 till date.

7. As a cumulative effect of the aforesaid facts/observations/rules/guidelines, I hereby direct the respondent no. 3 to release the entire salary of the petitioner from the period August, 2015 till date within a period of six weeks from the date of receipt of a copy of this order.

8 Resultantly, the present writ petition stands allowed.