

(2002) 03 JH CK 0001
In the Jharkhand High Court
Case No : CWJC No. 3523 of 2000 (R)

Smt. Indubala Topno

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 20-03-2002

Acts Referred:

Citation : (2002) 03 JH CK 0001

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

Bench : Single Bench

Advocate : Madan Mohan Pan, for the Appellant; A.B. Mahato, J.C. to G.P. II and D.K. Sinha, for respondent Nos. 4 and 5, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—Heard the parties.

2. This writ petition has been preferred by petitioner for a direction on the respondents to pay her the retiral benefits to which she is entitled having retired as Assistant Teacher on 31st October, 1998 from St. Agnes Girls High School, Itki, Ranchi.

3. The case of petitioner is that she was in the services of Christ Church Girls High School, Bhagalpur, Bihar from where she was transferred to St. Agnes Girls High School, Itki, Ranchi, (vide Annexure 7) where she continued and retired.

4. The District Education Officer, Ranchi (D.E.O.) has taken a plea that the petitioner was never transferred from Christ Church Girls High School, Bhagalpur rather she tendered her resignation which was accepted. In the circumstances the petitioner is not entitled to retirement benefits.

5. In this connection the respondents have relied on a letter of Christ Church Girls High School, Bhagalpur.

6. On notice respondent No. 4 and 5, Secretary and Headmistress, St. Agnes Girls High School, Itki, Ranchi have appeared and filed their counter-affidavit.

They have relied on a letter issued by Christ Church Girls High School, Bhagalpur on 10th September, 2000 to suggest that the Bhagalpur School accepted the petitioner's resignation in pursuance of decision of Managing Committee held on 19th May, 1987. The so called proceeding of the Managing Committee of Christ Church Girls High School, Bhagalpur dated 19th May, 1987 has been enclosed as Annexure A/1 to the counter-affidavit filed by respondent No. 4 and 5.

7. The petitioner has disputed the allegations aforesaid and stated that she was merely transferred. She never submitted any resignation.

8. In support of her claim she has enclosed copy of the relevant Service Book.

9. From the enclosures attached to the affidavits and pleading of the parties it appears that the stand taken by the petitioner is correct and is based on records. The respondents are raising objection on mere presumption after retirement of the petitioner.

10. From the letter dated 19th September, 2000 issued by the Christ Church Girls High School, Bhagalpur it is evident that the petitioner was transferred from the said school vide letter No. 785-764 dated 1st May, 1987 (wrongly typed as 16th May, 1987). The petitioner, Smt. Topno applied to relieve her by her letter 16th May, 1987 to join the transferred school. It was accepted on 16th May, 1987 but it was wrongly shown that the petitioner was discharged (Kary Mukh Kiya Gaya). The aforesaid matter is stated to have been placed before the Managing Committee of the Bhagalpur School for approval. Draft Resolution No. 8 dated 19th May, 1987 was prepared (Annexure A/1) and the six members were shown to be present. The relevant portion of the draft resolution is quoted hereunder :--"1. Roll Call : Following members were present.--

(1) Rt. Rov. N.M. Bagh (Chairman) (2) Mrs. C.N. Bagh Member D.E.B. Secretary. (3) Rev. J.M. Malwa Secretary (4) Mr. J. Prasad Member (5) Mrs. S. Mukherjee T.R. (6) Miss N.R.J. Eerenze Principal."

Item No. 8 :

"Mrs. I.E. Topno's Resignation : Mrs. I.B. Topno's resignation has been submitted to the Secretary, but no information was given to the Chairman nor placed in the Managing Committee. Her resignation has been accepted."

11. However, in the proceeding only the Secretary of Bhagalpur School signed on 19th May, 1987 and the rest of the members including Chairman of the Committee did not choose to sign.

12. It appears that the aforesaid proceeding was not signed by the rest of the members there being factual error relating to the petitioner who was allowed to join the transferred school, as is evident from Annexure A. But in the proceeding she was wrongly shown to have been removed (Karj Mukh Kiya Gaya).

13. It is for the said reason, it appears, in the Service Book it was recorded that her resignation was accepted vide Resolution No. 8 dated 19th May, 1987 but it

was subsequently struck down by the Principal, Christ Church Girls High School, Bhagalpur, as approved by the District Education Officer, Bhagalpur.

14. In any case the petitioner having retired, it is not open to the respondents to raise doubt relating to transfer of the petitioner as was made in the year 1987 to defeat her claim of retiral benefits.

15. In the facts and circumstances, as the respondents failed to show any valid ground to withheld the retiral benefits, they are directed to release and pay the admitted retiral benefits and other dues in her favour as per order of this Court dated 27th June, 2000 passed in CWJC No. 1610/2000 (R) within two months from the date of receipt/ production of a copy of this order, failing which, the respondents will be liable to pay interest @ 5% per annum from the date of retirement till the date of payment.

16. The writ petition is allowed with the direction and the observation aforementioned.