
(1989) 11 RAJ CK 0040
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2739 of 1989

Smt. Mohini Kulhari	Vs	APPELLANT
State of Rajasthan and Others		RESPONDENT

Date of Decision : 30-11-1989

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1989) 2 RLW 522 : (1990) 1 WLN 513

Hon'ble Judges : N.C. Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

N.C. Sharma, J.—This is a writ petition filed by Smt. Mohini Kulbari Under Article 226 of the Constitution of India for issue of a mandamus directing respondents to make payment of salary to the petitioner from the month October, 1988 to date along with interest at rate of 18% per annum. Some more reliefs have been claimed.

2. Notice of the writ petition was served upon the respondents to show cause why the writ petition should not be admitted and disposed of. Respondents were served. Respondent No. 5 appeared in person on October 5, 1983. No reply has been filed by the respondents to the writ petition.

3. Since December 21, 1984, the petitioner was working as Teacher Grade II at Government Girls Secondary School, Bissau. She was transferred to Government Girls Senior Higher Secondary School Jhunjhunu where she joined on September 27, 1988. The order transferring the petitioner from Bissau to Jhunjhunu is Annexure-1. She was relieved from Government Girls Secondary School, Bissau on September 27, 1988, by Office Order Annexure-2 and she joined at Government Girls Senior Higher Secondary School, Jhunjhunu on that very day as it would appear from the joining report Annexure-3.

4. It appears from Annx. 4 that after transfer of the petitioner from Bissau to

Jhunjhunu the Headmistress of the school of Bissau had sent an incorrect Last Pay Certificate on the basis of incomplete entries in the service book. The petitioner had made a grievance that her fixation had been made wrongly and the same was corrected by the Deputy Director of Education, Jhunjhunu, but it was not given effect to by the Headmistress of the Bissau School. Secondly, the Service Book and Last Pay Certification of the petitioner were sent back to Bissau. The petitioner sent a representation on April 20, 1989 Annexure-5 to the Headmistress of the Government Girls Higher Secondary School, Bissau. In this representation, the petitioner made the following submissions:

- (1) She had not received payment of her travelling allowances, the bill of which had been submitted in October, 1987 for issuing order sanctioning the payment;
- (2) The permission for appearing M. A. Final Examination was also required to be sent;
- (3) There were two medical reimbursement bills, of which payment was claimed.
- (4) Arrears of emoluments on the basis of re-fixation of pay and allowance since the year 1986 were claimed.
- (5) On the basis of transfer, the Last Pay Certificate was required to be sent.
- (6) The Service Book with complete entries upto September, 1988 were required to be sent to Jhunjhunu school.

Ultimately, the petitioner made a representation to Public Grievance Officer, Jhunjhunu on April 26, 1989. A reply was received from Collector Jhunjhunu by the petitioner (Annexure-7). The Collector informed the petitioner on the basis of the information furnished by the Headmistress, Bissau School that the arrears of the petitioner could not be paid on account of absence of budget allocations and it was mentioned that the Headmistress has been required to make payments in accordance with rules on receipt of budget allocations. It was further mentioned that the Last Pay Certificate had been sent after the payment of the salary for the month of September, 1986. For the revised Last Pay Certificate, it was stated that the same would be sent when the Bissau School would dearness arrears amount and realise some recoveries consequent upon fixation in respect of period from 1st September, 1981 to 19th September, 1984.

5. The petitioner has mentioned in para 5 of the writ petition that she had never objected to the realisation of recoveries on account of the benefits of fixation taken by her during the period 1st September 1981 to 19th September, 1984 as the petitioner was entitled to receive a sum of Rs.3000/- as a result of re-fixation made in the year 1986 as against the amount of Rs.300/- to be recovered from her towards excess benefits drawn. Therefore, according to the petitioner, there does not appear any justification for withholding payment of salary from the month of October, 1988 onwards, at least, on the basis of unrevised Last Pay Certificate.

6. From the above facts it appears that during the month of December 1988 incomplete Service Book and the Last Pay Certificate appears to have been sent by the Headmistress of the Government Girls Secondary School, Bissau to the new place of position of the petitioner at Jhunjhunu. That service Book and the Last Pay Certificate were sent back by the Headmistress of the Jhunjhunu School to Bissau in order to complete the Service Book and to issue a correct revised Last Pay Certificate. Thus, the main controversy was regarding correct re-fixation of the petitioner's emoluments as per revised scap of pay and the drawal of the arrears in accordance with the re-fixation, making of some recoveries of the excess payments made and completion on the Service Book and sending of a final revised Last Pay Certificate. The petitioner should have been paid salary on the basis of the Last Pay Certificate which had been sent to Jhunjhunu School in December, 88 and the Headmistress, Jhunjhunu School could have also simultaneously asked the Bissau School authorities to make re-fixation of the petitioner's pay and to send the final Last Pay Certificate If that course would have been adopted, the petitioner's salary would have continued to be paid subject to the Final Last Pay Certificate which might have been received However, that stage has gone now and it is clear that the matters regarding re-fixation of pay, the recovery of excess amount drawn, drawal of arrears, completion of service book, sending of Last Pay Certificate are pending since long with the Headmistress, Government Girls Secondary School, Bissau i.e. since December, 1988. In these days, it is difficult for a Government Servant to pull on if he or she does not get salary for 11 continuous months These Heads of Offices should realise that administrative efficiency is since quo non of good administration. Things should not be allowed to linger on the basis of proverbial red-tapism. What is surprising is that despite representations made by the petitioner, the Headmistress of Government Higher Secondary School Bissau has not even cared to inform the petitioner about the position in her matter relating to sending of the revised LPC and arrears etc. When ever, a genuine representation is made to any Head of Office, Head of Department or even to the State Government, it is absolutely necessary, for them to send reply to the person making representation relating to his grievances, They cannot remain dormant and act in secrecy when rights of others are affected.

7. I allow this, writ petition and do here by command to the Headmistress, Government Secondary School Bissau, (District Jhunjhunu) to send final Last Pay Certificate of the petitioner along with her completed Service Book to the Headmistress, Government Senior Girls Higher Secondary School, Jhunjhunu within a period of one month. I further command her to arrange for drawal and payment of arrears due to the petitioner as a result of re-fixation of her salary, medical reimbursement and T.A. Bill within a period of two months. I further command respondents No. 2 and 3 to see administratively that the Headmistress Government Girls, Higher Secondary School, Bissau obeys this command literally and punctually Thereafter the Headmistress, Government Girls Senior Higher Secondary School, Jhunjhunu would forthwith take steps for the drawal of the

arrears of salary due to the petitioner from October, 1988 and onwards and for immediate payment to her of the same.

8. In these circumstances of the case, I shall leave the parties bear there own costs.