
(2013) 01 JH CK 0033

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3353 of 2004

Smt. Poonam Sinha and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-01-2013

Acts Referred:

Citation : (2013) 1 AJR 706

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Afaque Hussain, for the Appellant; S.P. Roy for State, for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. These thirteen writ petitioners have approached this Court for directing the respondents to grant super time scale of Rs. 2400-4150 (unrevised) and revised scale of Rs. 8000-13500 and also to pay the difference of arrear salary with effect from the due dates till the dates of their respective retirement. Petitioners have also sought a direction upon the respondents to grant revised scale from 1st January, 1996 (actual payment from 1st April, 1997) along with the arrears of difference of salary.

2. These petitioners have indicated their brief career history in paragraphs 5 to 10 of the writ application. From the submissions of the counsel for the petitioners and also perusal of the averments made in the aforesaid paragraphs, it appears that the original petitioner No. 1 (now deceased) had retired from service on 31st January, 1997; the petitioner No. 2 retired on 31st December, 2003, the petitioner Nos. 3 & 4 retired on 30th September, 1996; the petitioner No. 5 retired on 31st July, 2001; the petitioner No. 6 was on the verge of retirement and was working as ADSO at Ghatshila Sub-Division; the petitioner No. 7 retired on 30th November, 2002; the petitioner No. 8 retired on 31st December, 1999; the petitioner No. 9 retired on 30th November, 2002; the petitioner No. 10 retired on 31st January, 1999; the petitioner No. 11 retired on 22nd February,

1999; the petitioner No. 12 retired on 31st January, 2000; and the petitioner No-13 retired on 31st May, 1996. From perusal of the submissions made by the counsel for the parties, it appears that except petitioner Nos. 2, 5, 6, 7 and 9, rest of the petitioners were posted and have retired from parent State of Bihar, Petitioners have relied upon the vigilance clearance granted by the office of Lokayukta vide Annexure-1 dated 5th August 2002 pursuant to the proposal sent by the Com-missioner and Secretary, Food Supply and Commerce Department, Government of Bihar According to these petitioners, vigilance clearance was granted to the persons named in the list annexed to Annexure-2 in which name of these petitioners also transpire. Subsequently, vide notification dated 19th March, 2005 annexed as Annexure-6 to the rejoinder filed by the petitioners to the counter-affidavit of the respondent State of Jharkhand, 37 persons have been granted the benefit of super time scale with effect from 1st March, 1989, but the petitioners have been surprisingly left out.

3. Although, the respondent State of Bihar were granted time in the year 2004 and 2006 to file counter-affidavit, but no counter-affidavit has been filed on their behalf. The respondent State of Jharkhand has filed their counter-affidavit giving individual description of these petitioners at paragraph-6 by way of a chart whereby the respondent State of Jharkhand submit that only four petitioners i.e. petitioner Nos. 2, 5, 7 & 9 have retired from service while working in the jurisdiction of the State of Jharkhand, whereas petitioner No. 6 was on the verge of retirement and was posted as ADSO, Deoghar when the affidavit was filed in the January, 2005. According to the respondent State of Jharkhand, the State of Jharkhand is not responsible for grant of such super time scale to the other petitioners who have retired prior to the bifurcation of the State of Bihar and they would consider the case relating to grant of higher scale on promotion to persons who were allocated Jharkhand cadre and have retired from the State of Jharkhand.

4. The State of Bihar, on the other hand, submits that since the other petitioners leaving aside the petitioner Nos. 2, 5, 7 & 9 have retired prior to the bifurcation of the parent State of Bihar, their cause of action would lie before the respondent authorities of the State of Bihar and before the Patna High Court where they can agitate their respective grievances.

Petitioners, on the other hand, have relied upon Annexure-6 dated 19th March, 2005, however he has not been able to show that persons named in the said notification are Junior to the present petitioners so as to make out a case of discrimination vis-?-vis these petitioners.

The writ petition has remained pending since the year 2004 and the State of Bihar has riot filed counter-affidavit in the matter despite adjournments. In these circumstance, given the stand taken by the State of Jharkhand as well as by the State of Bihar, petitioner Nos. 2, 5, 6, 7 & 9 are allowed liberty to approach the Secretary, Food and Civil Supply Department, Government of Jharkhand. Ranchi (Respondent No. 1) with a fresh representation, within a period of three weeks

together with all facts and supporting documents, for redressal of their grievances of grant of super time scale as claimed by them. Rest of the petitioners are also allowed liberty to approach the Secretary, Food and Civil Supply Department, Government of Bihar, Patna (Respondent No. 4) with a fresh representation for redressal of their aforesaid grievances, within a period of three weeks together with all facts and supporting documents. In case such a representation is made before the concerned authority i.e. respondent No. 1 or 4 as aforesaid, he will consider the case of the individual petitioners" in accordance with law, and pass a reasoned and speaking order, within a period of twelve weeks from the date of receipt of such representation. Needless to say if the case of the individual petitioners are found genuine and legally admissible for grant of super time scale, the same should be paid to them within a reasonable time.

The writ petition stands disposed of.