
(2004) 06 JH CK 0021

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2912 of 2002

Smt. Pramila Mukherjee

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-06-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 3 JCR 379

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : Gautam Kumar, for the Appellant; I. Sen Choudhary, SC-III, for the Respondent

Judgement

Amareshwar Sahay, J.—The petitioner retired as Head Mistress from Bindubashini Middle School, Sahebaganj on 31.8.1999. Her claim is that she was given Junior Selection Grade w.e.f. 1.4.1981, and she retired in the same very scale. According to her after completion of three years from the date she was given Junior Selection Grade scale, i.e. w.e.f. 1.4.1981, she was entitled to get Sr. Selection Grade promotion scale w.e.f. 1.4.1984, as per the Government Notification dated 18.12.1984, contained in Annexure-2.

,2. The petitioner further states that she alongwith others filed a writ application before the Patna High Court being C.W.J. C. No. 5564/1985, claiming Junior Selection Grade and Senior Selection Grade scale. The said writ application was disposed of on 14.1.1986, in view of the fact that the respondent State authorities admitted the claim with regard to promotion to Junior Selection Grade and Senior Selection Grade. The order of the High Court has been annexed as Annexure-1 to the writ application.

3. The grievance of the petitioner is that in spite of the fact that the respondent State admitted the claim of the petitioner and others regarding Junior Selection Grade and Senior Selection Grade but she was given only the Junior Selection Grade w.e.f. 1.4.1981, to which she was entitled to. It is said that several

representations were filed by her but no decision was taken in the said matter and ultimately she retired from service on 31.8.1999, in Junior Selection Grade itself.

4. On the other hand the respondent have resisted the claim of the petitioner that the petitioner was given Junior Selection Grade w.e.f. 1.4.1981, and the order of the High Court Annexure-1 was passed in the year 1986 and it is only after about three years of her retirement, i.e. in the year 2002, after a lapse of more than 15 years the petitioner has claimed the Senior Selection Grade and, therefore, the claim of the petitioner is apparently a stale claim. It is further submitted by the respondent that in the year 1993 the government came out with Notification Nos. GSR-28 and GSR-29 dated 9.7.1993, framing fresh Rules for such promotions and the claim of the petitioner was examined by the authorities pursuant to the aforesaid Government Notification of the year 1993 and then the claim of the petitioner was not found fit to be allowed and, therefore, the petitioner is not entitled to. the claim as made in the present writ application.

5. From the facts stated as above, it is evident that initially the claim of the petitioner and similarly situated persons who had filed writ application before Patna High Court, were admitted by the respondents State but as according to the respondents the Government came out with a fresh notification in the year 1993 disentitling the petitioner from the benefit of the Sr. Selection Grade.

6. No doubt that the petitioner has approached this Court for grant of Sr. Selection Grade after an inordinate delay but the respondents have themselves stated that the claim of the petitioner was rejected in the year 1993. Nothing has been brought on record that such order rejecting the claim of the petitioner was communicated to her at any time.

7. Therefore, in my view, for the ends of justice, the respondents should decide the claim of the petitioner taking into consideration the facts stated in this order. Accordingly, this application is disposed of with a direction to the petitioner to file a fresh representation stating in detail about her claim alongwith all supporting documents before the Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Sahebganj, within a period of four weeks. If such representation is filed by the petitioner within the specified period, the Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Sahebganj is directed to consider the claim of the petitioner in its right perspective and take a decision in the matter within a period of eight weeks from the date of filing of such representation by the petitioner. Any decision taken must be communicated to the petitioner immediately.

8. If the decision is taken by the respondents against the petitioner, she is being given liberty that if so advised she may challenge the same before the appropriate forum.

9. With the above observations and directions this application is disposed of.