
(2008) 09 JH CK 0040
In the Jharkhand High Court

Sri Ram Sagar Singh and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-09-2008

Acts Referred:

Citation : (2008) 4 JCR 619

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Judgement

R.R. Prasad, J.—The petitioners are the teachers posted in different High School in the territory of the State of Jharkhand and they by virtue of the Resolution No. 6022 dated 18.12.1989 (Annexure-I) issued by the Department of Finance, Government of Bihar were promoted to selection grade in between 1986 and 1992 and accordingly fixation of the salary was made. Subsequently, the Government of Jharkhand came with the resolution as contained in Memo No. 7946 dated 16.11.2000, whereby decision was taken that the fixation of salary made pursuant to the Resolution No. 6022 dated 18.12.1989 (Annexure-1) needs to be re-fixed in terms of the Resolution No. 1000 dated 20.2.1993 (Annexure-2). Consequently, decision was also taken to recover the amount which has been paid in excess from the salary bill of March 2001.

2. Being aggrieved with those orders, the petitioners have preferred this writ application.

3. Learned Counsel appearing for the petitioners submits that certain persons aggrieved with the orders passed under Annexure-2 preferred a writ application before the Patna High Court vide CWJC No. 2405 of 1997 whereby Patna High Court after taking into consideration the relevant provisions did hold that the resolution dated 20.2.1993 (Annexure-2) is not applicable in the case of the petitioners in the matter of fixation of pay on promotion/conversion granted prior to 20.2.1993 and, therefore, the respondents cannot review the fixation of pay of the petitioners which were made and also provided to the petitioners prior to the impugned resolution dated 20.2.1993.

4. Learned Counsel further submits that similar is the case here, as in this case the petitioners' fixation of pay on promotion have been made in between 1986 and 1992 and under that situation, the Authorities cannot re-open the matter and pass order for refixation of salary.

5. Learned Counsel further submits that during the pendency of this writ application, the petitioner Nos. 6, 7, 9, 12, 15, 16, 20 and 21, namely. Sri Bhola Ram Singh, Sri Shyamdeo Ram, Sri Saxaman Dubey, Sri Suresh Nath Mishra, Sri Shyam Nath Mishra. Sri Braj Sahu, Sri Braj Bihari Nand Tewary and Sri Ramesh Prasad got retired on superannuation and petitioner No. 18, namely, Sri Prahlad Bhagat; has died, but retiral benefits, which they are entitled to, are not being given to them due to pendency of this writ application.

6. A counter affidavit has been filed on behalf of the State of Jharkhand, wherein it has been specifically admitted that the issues involved In this case have already been decided by the Patna High Court in CWJC No. 2405 of 1997.

7. In view of the facts and circumstances as stated above, this writ application is disposed of in terms of the order passed in CWJC No. 2405 of 1997 that the resolution dated 20.2.1993 (Annexure-2) is not applicable in the case of the petitioners in the matter of fixation of pay on promotion granted to them prior to 20.2.1993 and, therefore, the respondents cannot review the fixation of pay of the petitioners which has already been provided to them prior to the resolution dated 20.2.1993. Consequently, the respondents are not entitled to make any recovery from the salary of the petitioners or from their retiral dues.

8. It is further directed that the respondents will process the matter relating to the retiral dues with respect to the petitioners already retired/died so that the retiral benefit be given to them at the earliest. With this observation and direction, this writ application stands disposed.