
(2003) 01 JH CK 0069
In the Jharkhand High Court
Case No : CWJC No. 9279 of 2000 (P)

Subal Chandra Mandal and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 16-01-2003

Acts Referred:

Citation : (2003) 1 JCR 604

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : Jay Prakash Jha and S.S. Choudhary, Subba Jha, for the Appellant;
Mahesh Kumar Sinha, JC to AAG, for the Respondent

Judgement

Tapen Sen, J.—Heard Mr. Jay Prakash Jha, learned counsel for the petitioners, Mr, Mahesh Kumar Sinha, learned Junior Counsel to the Additional Advocate General and Mrs. Subha Jha, learned counsel for the Intervenors.

2. At the very outset, Mr. Jay Prakash Jha, learned counsel for the Petitioners prayed that he may be allowed to implead the Director, Primary Education, Government of Jharkhand, Ranchi as Respondent No. 6 in this case. Let him do so during the course of the day.

3. These 41 (forty one) Writ Petitioners have prayed that a direction be passed upon the authorities to make payment of arrears of salary and that they be given all benefits in the period their services had been terminated till the date they were reinstated so that they have the status of continuity of service.

4. Mr. Jay Prakash Jha, learned counsel for the Petitioners draws attention of this Court to Annexure 2 to the Writ Application and states that from a perusal thereof it would be apparent that details have been given in relation to dates of appointment, dates of termination of services as also the dates on which these Petitioners were reinstated in service.

5. Briefly stated, the case of the Petitioners is that in the year 1981, the State

Government had decided to make appointments on the post of Assistant Teachers in the Primary/Middle Schools in the District of Santhal Pargana and a Selection Committee was duly constituted. Subsequently an advertisement was published in the News Papers as also on the Notice Boards of the Office of the District Superintendent of Education of Santhal Pargana and the Petitioners, who had all the requisite qualifications, duly applied for being appointed on the post of Assistant Teachers.

6. After having been selected, they faced interview and vide different orders they were all posted in different Primary/ Middle Schools in the District of Sahebganj.

7. Suddenly in the year 1984, the salary of the Petitioners was stopped as a result whereof, all the Petitioners herein filed different Writ Petitions before the Patna High Court for payment of salary and it has been stated at paragraph 9 that in the year 1984-85 all Writ Applications were allowed by different orders/ judgments and a direction was given to the Respondent to make Payment of salary to the Petitioners, whereafter the Petitioners started receiving their salary.

8. Suddenly, pursuant to a direction of the Special Secretary Department of Education, Government of Bihar issued on 13.11.1984 the services of all the Petitioners were terminated vide different letters which gave rise to filing of another set of Writ Applications before the Patna High Court. However, as has been stated in paragraph 12 of the Writ Application, in some of the Writ Applications, the order of removal/termination were stayed in some status-quo was ordered to be maintained, while some were dismissed.

9. Consequently, the persons who were aggrieved, moved the Supreme Court vide SLP No. 5041 of 1986 against an order dated 05.03.1986 passed in C.W.J.C. No. 119 of 1985. The aforementioned SLP was dismissed on 06.08.1986 observing that the Petitioners may avail the alternative remedy of filing the suit whereafter the petitioners filed Title Suit No. 23 of 1987 and 24 of 1987. In the year 1987 an advertisement was published from the office of the District Superintendent of Education calling for application for the post of Assistant Teachers, whereafter the Petitioners No. 26 and 29 applied along with others and a panel was prepared and the names of the Petitioners No. 26 and 29 were also included in the panel and subsequently they were also appointed.

10. However, it appears from Annexure 3 that subsequently, all the petitioners were re-appointed on different dates.

11. Now the Petitioners have prayed that since they have now been reappointed. and since others persons such as one Sub-odh Kumar Jha along with others who had filed a Writ Petition were given the benefits of having the credit of past service both with regard to payment of salary as also seniority and other service benefits, should also be dealt with similarly. In support of the aforesaid contention that some persons had been given the said benefits, learned counsel for the Petitioners has drawn attention of this Court to Annexure 9 of the Writ Application. In the case of Mohan Prasad Singh v. State of Bihar and Taranand

Kumar v. State of Bihar, reported in 1999 (2) BBCJ 387 it has been held at paragraphs 38 and 39 that when colleagues of the Petitioners got relief from the Court against the order of their termination of service and when the Petitioners challenged the same order, they cannot possibly be told that Court will reject their case on the ground of delay. In the instant case also, the learned counsel for the Respondents have taken plea of delay inasmuch as according to them, their services were terminated during the years 1984-86 and therefore, this Court should not grant any relief to them. In the case referred to above it was held that only because they have approached the Court after a considerable lapse of time they should not be told that they will not get the same reliefs as has been granted to the others in other Writ Petitions. Moreover, in this case also, it does not appear that the learned counsel for the Respondents has been able to establish that any third party rights or parallel rights have come into existence. That being the position, this Court also takes the view that if these Petitioners are denied the benefits that others had been given and who had chosen to move the Court, it would amount to violation of the equality clause granted under Article 14 of the Constitution of India. In yet another case decided by this Court on 17.01.2003, a similar view had been taken in C.W.J.C. No. 935 of 2001.

12. It is necessary to mention that in this case, no Counter Affidavit has been filed on behalf of the Respondents.

13. Consequently, this Writ Application is disposed off with the following directions--

(i) The Writ Petitioners will approach the Director, Primary Education, Government of Jharkhand, Ranchi (newly added Respondent No. 6) and give details in relation to their claims. It goes without saying that such representation must be filed within a period of six weeks from today.

(ii) Upon receipt of all such representations, the newly added Respondent No. 6 shall deal with the same strictly in accordance with law and take into consideration the order of District Superintendent of Education, Pakur, Sahibganj which was passed giving benefit to other persons who had moved the Writ Petition by giving them continuity of service and other service benefits. He shall also take into consideration the observations made in this order.

(iii) It is also ordered that the said newly added Respondent No. 6 shall give all reasonable and adequate opportunity of hearing to the Petitioner and shall pass the order in accordance with law within a period of six weeks from the date he receives the representations indicated above.

14. In this case an Intervention Application has been filed on 13.01.2002 for intervention of 7 (seven) more persons as Petitioners. It has been stated in the Intervention Application that these seven persons are similarly situated and they should also be given similar reliefs. Since this Court is remanding the matter to the newly added Respondent No. 6, it goes without saying that these Intervenor

shall have the liberty to move individual representations before the aforementioned authority who shall deal with the same in the manner above. The Intervention Application is accordingly disposed off.

15. With the aforementioned observations and directions, this Writ Application is disposed of. However, there shall be no order as to costs.