
(2015) 10 JH CK 0025
In the Jharkhand High Court
Case No : WP(S) No. 3972 of 2011

Suresh Kumar Sahu

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 16-10-2015

Acts Referred:

Citation : (2015) 4 JLJR 620

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Rohit Roy, for the Appellant; Rakhi Rani, for the Respondent

Final Decision : Disposed Off

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. Petitioner is one of the four Cluster Resource Persons under Block Education Extension Officer, Sonahatu (Respondent No. 5) on whom show-cause notices were issued vide Annexure-1 bearing memo No. JEP 1189 dated 20.10.2008 that they are not discharging their duties in a responsible manner and other three persons except the petitioner have remained absent on certain dates on which meeting were called by the Respondent No. 5. It indicates that no work would be taken from them till considered decision is taken after receiving their reply to the show-cause.

2. In the petitioner's earlier writ petition WPC No. 4765/2010 seeking payment of honorarium on grounds that even after order dated 20.10.2008 and submission of his reply on 31.10.2008 he was asked to resume work from 5.12.2008 verbally, the District Superintendent of Education, Ranchi-cum-District Programme Officer (Respondent No. 4) herein was directed to take a decision in accordance with law after giving opportunity of hearing to the petitioner (Annexure-8). The order passed thereafter by the Respondent No. 4 at Annexure-9 indicates that on production of acquaintance roll of the attendance of the petitioner from April 2008 to August 2009. Respondent No. 4 directed payment of admissible honorarium from April 2008 onwards for the period of

work discharged by the petitioner, as per rules, to the Respondent No. 5. Petitioner was thereafter paid honorarium only till 20.10.2008. His claim for further honorarium was declined by the impugned letter No. 599 dated 28.6.2011 by the Respondent No. 4 on the grounds that after 20.10.2008 (Annexure-1), there was no direction to the block office to take work from the petitioner; petitioner did not have permission from any authority to discharge work thereafter. This order at Annexure-14 is under challenge by the petitioner in the writ application apart from seeking direction to make payment of honorarium since October 2008 and also to issue formal orders for resumption of work as a Cluster Resource Person in the school under Sonahatu block.

3. Respondents in their counter affidavit have also taken the same plea that 20.10.2008 was the cut-off date whereafter, no one issued formal orders for taking work from the petitioner: no competent authority also issued formal orders for taking work from the petitioner: petitioner cannot have the valid claim for payment thereafter as he has also not submitted any proof of discharge of work after 20.10.2008, nor any oral order was given to the petitioner: he has been paid a sum of Rs. 23,700/- as reported by the Respondent No. 5 through letter dated 21.6.2011 for [he period he worked from April 2008 to 20.10.2008.

4. Counsel for the petitioner has categorically stated at paragraph-23 of the writ petition that another person also covered under the order at Annexure-1 dated 20.10.2008 Mantosh Kumar Rai has been paid regularly, though there were direct allegation against him. He has referred to the enclosure at Annexure-6 to the writ petition dated 26.3.2009 which shows payment of Rs. 55,200/- to the said person through cheque. Petitioner in his rejoinder has enclosed several statements of attendance of the petitioner in Primary School, Birudih, Sonahatu said to be countersigned by the Headmaster of the School which shows discharge of his duties even after October 2008 till March 2011. Counsel for the petitioner submits that when work has been taken from the petitioner as a Cluster Resource Person even after issuance of Annexure-1 show cause notices in October 2008 and another person Mantosh Kumar Rai has also been paid honorarium for discharge of his duties thereafter for the same post, there is no reason why on the principles of "equal pay for equal work", petitioner should be denied honorarium due to him upon due verification of discharge of his duties.

5. Learned counsel for the respondent State submits that the work undertaken after 2010 being not authorized by order of any competent authority, discharge of any such work with the connivance of the Headmaster of the School would not entitle him to seek honorarium for the said period.

6. I have considered the rival submissions of the parties in the light of the relevant material facts noticed hereinabove. Things which are to be noticed from the rival pleadings of the parties are that despite issuance of order dated 20.10.2008 which covered not only the petitioner, but Mantosh Kumar Rai also, the said Mantosh Kumar Rai appears to have been paid honorarium for discharge of his duties as Cluster Resource Person in the same school under the same

block, as evident from Annexure-6. The other thing which is noticed is that apart from the order at Annexure-1, copy of which was served upon the Block Education Extension Officer, Sonahatu by the Respondent No. 4, there are no communication on record to show that the concerned Headmasters of the School were directed not to take work from any such Cluster Resource Person thereafter. On the face of these facts, documents annexed at Annexure-16 series are in the nature of statements of attendance-cum-honorarium for discharge of duties for certain periods which go up to March 2011. These documents also appear to have been countersigned by some person in the capacity of the Headmaster of the School. It therefore appears that whether petitioner has actually discharged his duties after 20.10.2008 in view of the findings recorded by the Respondent No. 4 also in the office order bearing memo No. 387 dated 25.3.2011, is one relevant factor to come to a definite finding by the competent authority as to whether petitioner has worked for the period even after 20.10.2008. If work has been taken by the respondents thereafter and there are evidences to support it, it would only be proper in the eye of law that for such discharge of work, admissible honorarium should not be denied when another similarly situated person Mantosh Kumar Rai has also been paid for the same work even after October 2008.

7. Therefore, the matter is remanded to the District Superintendent of Education-cum-District Programme Officer, Ranchi (Respondent No. 4) to consider these aspects in the light of the relevant, material facts and come to an informed decision. If he comes to a finding that petitioner has been made to discharge his duties even after October 2008 in the conscious knowledge of the Headmaster of the School, there is no reason why admissible honorarium be denied for the said period. Respondent No. 4 would also take a decision whether any formal order for taking work from the petitioner or any other similarly situated person is required to be issued keeping into light all relevant circulars and directions of the Jharkhand Education Project Council on the subject. Petitioner is at liberty to produce all relevant documents in support of his claim and also enclose the entire pleadings of the writ petition in his representation before the Respondent No. 4. Let such consideration be done in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. Writ petition stands disposed of. I.A. No. 4434/2014 also stands disposed of.