
(2013) 03 JH CK 0005

In the Jharkhand High Court

Case No : Writ Petition (S) No. 630 of 2012

Tahera Shabnam and Another

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-03-2013

Acts Referred:

Citation : (2013) 3 JLJR 17

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : A.K. Mehta and A. Pradhan, for the Appellant;

Final Decision : Allowed

Judgement

Narendra Nath Tiwari, J.—The petitioners are aggrieved by the office order dated 22.12.2011 (Annexure-9 & 9/1), whereby the

petitioners" pay scale has been reduced to Rs. 1200-2040/- on the ground that they acquired qualification of training after 31.12.1985. They are

also aggrieved by withholding of their salary since October, 2011. The petitioners" case is that under the UNICEF plan, Science Teachers were to

be appointed in Primary Schools to be called as "Additional Science Teachers": Accordingly, 2300 units of Science Teachers were created in

Non-Scheduled area by letter dated 20.02.1981 and 700 units of Science Teachers were created in Scheduled area. The untrained science

teachers were also to be appointed with condition that they will have to take in service training after their appointment, failing which their services

would be terminated. Those teachers will be entitled to get pay scale of a trained teachers with effect from the date of completing training and

getting the certificate. The petitioners along with others were appointed as

Science Teachers. Their remuneration was fixed on a stipend basis. For Graduate Untrained Teachers, the stipend was fixed at the scale of Rs. 680-965/- and for Graduate Trained Teachers, at Rs. 850-1360/-. The petitioners were I.Sc. and appointed on the scale of Rs. 535-765/- as a Urdu Science Teacher (Women). They passed B.Sc. Examination and were allowed Graduate Science Untrained Teachers' Scale of Rs. 680-965/-. They were sent for the service training by the respondents. They successfully completed the training while in service. On acquiring the qualification of training, the petitioners were allowed B.Sc. Teachers' Scale of Rs. 730-1080/-. After completion of training, the petitioners became eligible for getting graduate trained scale of pay. For that purpose, a seniority list was prepared by the District Superintendent of Education, Singhbhum showing the names entitled to get scale of Rs. 1640-2900/- w.e.f. 01.07.1992. Accordingly, orders were issued to that effect. Their pay fixation was approved by the competent authority of the department.

Subsequently, the recommendation of V Pay Revision was adopted by the State Government. The pay scales were revised. The pay scale of Rs. 1640-2900/- was replaced by Rs. 5500-9000/-. The petitioners' pay was fixed in the said revised scale w.e.f. 1.1.1996.

2. All of a sudden, petitioners were served notice dated 13.12.2011 to show cause as to why the Graduate Teachers' Scale of Rs. 1640-2900/- be not cancelled. In the meantime, the State Government adopted the recommendation of VI Pay Revision and the petitioners' pay was revised and their pay scale was replaced by Rs. 9300-34800/- in Pay Band (PB-II). The said fixation of pay was approved by the District Accounts Officer, East Singhbhum. The petitioners and others filed representations. The representations were placed before the District Education Establishment Committee in the meeting held on 14.05.2010. The said Committee decided to constitute a Screening Committee. The Screening Committee recommended for canceling the trained graduate scale of such candidates, who acquired training after 31.12.1985. The District Education Establishment Committee accepted the said recommendation in its meeting dated 17.11.2011. The respondent no. 5 on the basis of the said resolution directed the Headmasters of the Schools to implement the said order and to fix pay scale in the light of the order dated 22.12.2011

(Annexure-9 & 9/1) and to call upon the teachers to submit their service books before such entry. In view of the said order, the petitioners were not paid their salary since October, 2011.

3. The said order dated 22.12.2011 (Annexure-9 & 9/1) has been assailed by the petitioners on the ground that the same has been passed without taking into consideration that the petitioners were already trained and their pay scale was fixed by the competent authority. According to their qualification, the petitioners have acquired in service training and are entitled to get trained graduate pay scale from the date of acquisition of the training certificate. The impugned order is wholly arbitrary and illegal. Any order, which has effect of reduction of pay scale, cannot be implemented with retrospective effect.

4. Learned counsel for the petitioners submitted that on the similar facts and in similar circumstance, some of the aggrieved teachers, namely, Arbind Bhushan Dey & Others had filed writ petitions in this Court being W.P.(S) nos. 1555, 1556 and 1575 of 2003 challenging reduction of their pay scale. This Court allowed the writ petitions directing the respondents to pay their salary on Graduate Trained Science Teachers pay scale with effect from the date they acquired teachers training. They were also held entitled to get revised pay scale from the date of implementation of the recommendation of V Pay Revision and VI Pay Revision. He submitted that this cases are squarely covered by the said decision in Arvind Bhushan Dey's case.

5. The respondents have contested this writ petitions. They have, inter alia, stated that it was clearly mentioned in the letter dated 20.11.1982 issued from the office of Education Commissioner, Bihar, Patna that the untrained scale category of unrevised scale of Rs. 296-423/- was revised to the scale of Rs. 730-1080/- for those who have a qualification of inter and graduate trained and the scale of Rs. 630-965/- for those who have a qualification of graduate untrained. The graduate trained scale category of unrevised scale of Rs. 387-600/- was revised to the scale of Rs. 850-1360/- for those who have a qualification of graduate trained. The petitioners were appointed as teachers against untrained category of posts with a scale of Rs. 535-765/- having qualification of B.Sc. They passed Graduation and were allowed pay scale of Rs. 680-965/- On acquiring

qualification of training, petitioners were allowed scale of Rs. 730-1080/-. The petitioners' pay scale was wrongly fixed at Rs. 1640-2900/-. That

scale was meant for B.Sc. trained category of posts. A High Level Enquiry Team examined the matter and found that the pay scales of the

petitioners and others were wrongly Fixed at higher scale of Rs. 1640-2900/- instead of Rs. 1200-2040/-. On the basis of that enquiry report,

the Establishment Committee in its meeting dated 8.6.1999 decided to cancel that order. The impugned order was thereafter issued by the District

Superintendent of Education. The order is intended to correct the error in fixation of the petitioners' pay scale. There is no arbitrariness or illegality

in canceling the said pay scale, which was wrongly given to the petitioners and the petitioners have no ground to challenge the said order.

6. I have heard learned counsel for the parties and considered the facts and material on record.

7. Though the respondents have supported the order of cancellation of pay scale of the petitioners with retrospective effect, they fail to legally justifying the same.

8. It is not in dispute that the petitioners' pay scale was fixed by the order of the concerned departmental authorities and the petitioners were

allowed pay scale of Graduate Trained Teachers From the date of acquisition of training. The pay on the trained scale was Fixed in accordance

with the Government circulars and the order was approved by the District Accounts Officer. The petitioners were given pay scale of Trained

Graduate w.e.f. 1.7.1992. Before that date, they had already completed training and got the certificate thereof. The petitioners have been getting

salary on the said pay scale, which was revised from time to time in accordance with the recommendations of V Pay Revision and thereafter VI

Pay Revision. The sanction, which was given in accordance with the provision of the UNICEF plan and the decision of the District Education

Establishment Committee, has been sought to be disturbed after a long time alleging that initial fixation of pay scale was wrong.

9. On perusal of the scheme and the orders issued by the concerned authorities, I find that the orders are consistent and supported with reference

of the Government's letters. No objection was ever made for a long period regarding/fixation of initial pay scale of the petitioners. After revisions

of the pay scale, there were replacements of the earlier scales. Though the respondents have claimed that there was error in fixing the petitioners"

pay scale, I find no material on record to substantiate the same. The petitioners were initially given graduate untrained scale. The petitioners

completed in service training and acquired eligibility and entitlement for graduate trained scale. The graduate trained scale was given to them after

acquisition of training.

10. In view of the above, I find no error or illegality either in fixation of initial pay scale of the petitioners or in granting Graduate Trained Scale or

further replacement of scales on account of subsequent pay revisions.

11. Similarly, aggrieved persons had earlier moved this Court in W.P.(S) nos. 1555, 1556 and 1575 of 2003. The writ petitions were allowed

after contest directing the respondents to pay at Graduate Trained Science Teachers pay scale with effect from their respective dates of acquisition

of the teachers training and also at the subsequent revised pay scale and accordingly to pay the arrears thereof. Similar claims have been also

allowed in C.W.J.C. nos. 2115 of 2001 with 3366 of 2001 relying on the said decision of Arbind Bhushan Dey and Others, Suresh Kumar

Sharma and Others and Ashok Kumar Prajapati Vs. State of Jharkhand and Others, .

12. I find myself in full agreement with the conclusion recorded in the said decisions.

13. For the reasons aforementioned, this writ petitions is allowed. The order dated 22.12.2011, contained in Annexure-9 & 9/1) is quashed.

14. It is held that the fixation of the petitioners" salary at the Graduate Trained Science Teachers pay scale of Rs. 1640-2900/- is proper and the

interference with the same is unwarranted, arbitrary and illegal.

15. The petitioners are entitled to get the revised pay scales of the said scale and all consequential benefits.

16. The respondents are directed to pay the petitioners" salary, if withheld on the said ground along with arrears of salary forthwith. However,

there is no order as to cost.