
(2009) 02 JH CK 0019

Jharkhand High Court

Case No: None

Durga Ram Verma

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Feb. 2, 2009

Hon'ble Judges: Rakesh Ranjan Prasad, J

Bench: Single Bench

Final Decision: Allowed

Judgement

R.R. Prasad, J.

The petitioner was appointed as Clerk on 12.8.1977 in Pratibhamayee Balika Uchha Vidyalaya, Tharpkakhna Ranchi. Permanent recognition of which school had been given by the State Government, vide its letter as contained in memo No. 406/81-86 Patna dated 24.11.1976. Subsequently, Government of Bihar, vide its order as contained in memo No. 101/87-88 dated 14.12.1978 had declared the school as a minority school. The petitioner did work and drew salary regularly till December 1989, i.e, more than 10 years. Thereafter the Management of the school decided for closer of the school and as such, payment to the petitioner and other staffs were stopped. Thereupon, the petitioner did move before the authority for his adjustment in other school and also for payment of retiral dues. When nothing was done, petitioner did move before this Court, vide C.W.J.C. No. 2752 of 1999 (R) for a direction to the authority to make payment of the retiral dues. The said writ application was disposed of by directing the Director, Secondary Education, Government of Jharkhand to consider the case of the petitioner and to decide the claim of the petitioner either one way or the other by a reasoned order. Thereupon a fresh representation was filed by the petitioner before the Director, Secondary Education, Government of Jharkhand, respondent No. 3 stating therein that since he has completed more than 10 years of service, he is entitled to pensionary benefit even though school where he was working got closed. However, claim of the petitioner was rejected by the respondent No. 2 as contained in Annexure 7 holding therein that services of teaching as well as non-teaching staffs of the minority

schools being non-transferable would come to an end if the school gets permanently closed and as such, the petitioner is not entitled to any pensionary benefit.

2. Being aggrieved with that order, this writ application has been filed.

3. Learned Counsel appearing for the petitioner submits that as per the circular of the Government, employees of Government aided minority schools are entitled to get pension which fact even has been admitted in the counter affidavit filed on behalf of the respondents but still the claim of the petitioner was rejected on the premise that the school where the petitioner had put in service has permanently been closed but that can not be a valid ground as one is entitled to get pensionary benefit as soon as he completes 10 years of service irrespective of the fact that the school gets permanently closed or not. I do find substance in the submission advanced on behalf of the petitioner.

4. The issue as to whether employees of the minority school are entitled for pensionary benefit or not has already been decided by this Court in a case of Paul Mangra Kujur v. State of Jharkhand reported in 2005(4) JLR 135, wherein this Court having noticed the Government resolution No. 237 dated 20.2.1999 held that teaching and non-teaching employees of Non-Government Aided Schools or Minority Primary/Middle Schools are entitled to the benefit of the pension including family pension, gratuity and provident fund, though they are not entitled to leave encashment.

5. In that view of the matter, the petitioner having put in more than 10 years of service is entitled to pensionary benefit as has been indicated above irrespective of the fact that the school where the petitioner rendered services more than 10 years got permanently closed.

6. In this view of the matter, the order dated 20.11.2006 as contained in Annexure 7 is hereby quashed. Consequently, the respondent No. 2 is directed to take decision in the matter of payment of the retiral dues within a period of two months from the date of receipt/production of a copy of this order, failing which the petitioner would be entitled to interest @ 6% per annum.

7. In the result, this writ application is allowed.