

(2008) 09 JH CK 0013

Jharkhand High Court

Case No: Writ Petition (S) No. 340 of 2007

Kisto Ram

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Sept. 17, 2008

Acts Referred:

- Bihar Panchayat Committee and Zila Parishad (Service Condition) Rules - Rule 8(3), 9

Citation: (2009) 57 BLJR 309 : (2009) 1 JCR 223

Hon'ble Judges: Rakesh Ranjan Prasad, J

Bench: Single Bench

Advocate: Rupesh Singh, for the Appellant; K.K. Jhunjhunwala, for the Respondent

Judgement

R.R. Prasad, J.

Through this writ application prayer has been made to direct the respondent to grant the scale of senior selection grade and also to pay the arrears of salary and pension after revision of the last pay in the light of 6th pay revision committee recommendation. Further prayer is to quash the order as contained in memo No. 101 dated 22.10.2003 (Annexure 5/1) whereby respondent No. 4 has refused to grant monetary benefit in terms of the recommendation made by 6th pay revision committee and also to quash the order as contained in memo No. 122 dated 9.9.2006 (Annexure 5) intimating therein that apart from Rs. 64162/- payable on account of gratuity, earned leave and bonus, nothing remains due to be paid to the petitioner.

2. Learned Counsel appearing for the petitioner submits that the petitioner was appointed on class IV post in Deoghar District Board on 28.7.1964 and was paid revised salary in terms of the recommendation made by 4th pay revision committee and 5th pay revision committee after the recommendations were accepted by the State Government. In due course, the petitioner retired on 31.8.2002 on his superannuation after rendering almost 38 years of service. When retiral dues were

not paid, petitioner moved to this Court, vide W.P.(S) No. 2203 of 2003 which was disposed of by this Court by directing the respondent No. 4 to decide the issue and make payment of the retiral benefit admissible to the petitioner within a period of three months but the respondent in utter disregard to the order of this Court, when did not pass order regarding payment of the retiral dues, a contempt proceeding was initiated before this Court and thereupon respondent made certain payment of Rs. 64,162/- which was part of the retiral dues. However, the contempt case was dropped but liberty was given to the petitioner to represent the matter before the respondent No. 4 regarding his grievance for non-payment of other dues. Accordingly, the petitioner made representation before the respondent No. 4, who passed the order as contained in memo No. 122 dated 9.9.2006 (Annexure 5) intimating that the petitioner is not entitled more than Rs. 64,162/- which has already been paid.

3. In this regard learned Counsel further submits that the respondent No. 4 had earlier communicated an order to this petitioner as contained in memo No. 101 dated 22.10.2003 (Annexure 5/1) whereby certain amount had been sanctioned for payment to the petitioner. So far benefit in terms of recommendation of 6th pay revision committee is concerned, it had been stated that the authority has sought approval from the State Government and as soon as the State Government would be according approval, rest of the amount would be paid. However, when Annexure 5 was issued, the petitioner again represented the matter before the respondent No. 4 stating therein that in the light of Rule 8(3) and Rule 9 of the Bihar Panchayat Committee and Zila Parishad (Service Condition) Regulation, 1964, class IV employees of the Zila Parishad/District Board are entitled to same service condition as is applicable to other class IV employees of the State Government and as the benefit in terms of the recommendation made by 6th pay revision committee has been given to the employees of the State Government, the petitioner is also entitled to and that apart, the petitioner is also entitled to grant of Senior Selection Grade in terms of the circular of the Finance Department, bearing letter No. 10770 dated 30.12.1981 but still, no order has been passed and as such action of the respondent is quite arbitrary and denial of rest of the retiral dues the petitioner on the ground indicated above is wholly illegal and unjustified.

4. Counter affidavit has been filed on behalf of the respondents wherein it has been stated that the petitioner has already been paid a sum of Rs. 64.162/-. Apart from that, nothing is due to the petitioner and that the petitioner is not entitled to the benefit of the recommendation of the 6th pay revision committee as the petitioner was not State Government employee, rather was the employee of the Zila Parishad which is an Autonomous Body and it was never given adequate grant or loan and hence the financial position of the Zila Parishad is so weak that it is unable to pay salary or other allowances in terms of the recommendation of the 6th pay revision committee. Moreover, Zila Parishad, Deoghar has to disburse the salaries to its employees as per allotment sanctioned and under that situation, it is not possible

for the Zila Parishad to give benefit in terms of the 6th pay revision committee. In this regard it has further been highlighted that authorities of the Zila Parishad has been warned not to give any benefit in terms of the recommendation of the 6th pay revision committee unless it gets approval of the State Government and still the State Government has not accorded approval of the proposal sent to the Government under letter Nos. 98 dated 26.9.2003 and 74 dated 19.6.2003 and as such, the petitioner is not entitled to any relief.

5. Having heard learned Counsel appearing for the parties it appears that respondent-Zila Parishad has not been denying the claim of the petitioner on the ground that he is not entitled to, rather benefit to be given to the petitioner in terms of the recommendation of the 6th pay revision committee is being not given as the State Government has not accorded approval to the proposal sent by the authorities of the District Zila Parishad in this regard and secondly, that the allotment for meeting out the claim of the petitioner is not there. Can the authority deny the rightful claim of the petitioner on the aforesaid ground? The answer would certainly be in negative. It may be reiterated that the authorities of the Zila Parishad are denying the claim, which the petitioner is entitled to, in terms of the recommendation made by the 6th pay revision committee on the ground that the State Government has not accorded approval to the proposal sent in this regard but seeking approval of the State Government seems to be mere formalities in view of the provision as contained in Rule 8(3) and Rule 9 of the Bihar Panchayat Committee and Zila Parishad (Service Condition) Regulation, 1964 stipulating therein that class IV employees of the Zila Parishad are entitled to and would be governed by same service condition as is applicable to other class IV employees of the State Government. Thus, provision does suggests that benefit under 6th pay revision committee becomes automatically due to be paid to the class IV employees of the Zila Parishad/District Board as soon as recommendation is accepted by the State Government. It has been stated on behalf of the petitioner which has not been denied that the State Government employee is being given benefit of the recommendation made by the 6th pay revision committee and in that view of the matter, the petitioner is certainly entitled to benefit in terms of the recommendation made by the 6th pay revision committee and that apart, the petitioner is also entitled for consideration of the grant of Senior Selection Grade in terms of the Finance Department (Government of Bihar) Circular No. 10770 dated 30.12.1981.

5. Under these situations, the order passed in memo No. 101 dated 22.10.2003 (Annexure 5/1) and also memo No. 122 dated 9.9.2007 (Annexure 5) do not seem to be justified.

6. Accordingly, the respondent No. 4 is again directed to decide the matter relating to payment of retiral dues in terms of the recommendation made by 6th pay revision committee and also the matter relating to grant of Senior Selection Grade in terms of the Finance Department (Government of Bihar) circular No. 10770 dated

30.12.1981 afresh in accordance with law within a period of three months from the date of receipt/production of a copy of this order, failing which the petitioner would be entitled to get interest @ 6% over the amount which is due to be paid by the authority concerned.

7. With the aforesaid observation/direction, this writ application is disposed of.