

(2009) 11 JH CK 0018
Jharkhand High Court
Case No: None

Mutuk Sahu

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: Nov. 19, 2009

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Judgement

D.G.R. Patnaik, J.

Heard counsel for the parties.

2. The petitioner in this writ application, has prayed for a direction upon the respondents for re-fixation of his pension after giving him the benefits of two time bound promotions.

Petitioner has claimed that since the date of his initial appointment as a Matric Trained Teacher in the year 1959, he had worked continuously for 38 years 2 months and 27 days as an Assistant Teacher in the Primary School, but throughout the entire period of his service and till the date of his retirement on 28.2.1998, he was never given either the first or second time bound promotion and thereby, he was made to suffer loss of monetary benefits of such promotions and his pension has been fixed on the basis of the last pay drawn by him which, according to him, should have been much higher than what was paid.

3. A counter-affidavit has been filed on behalf of the respondents.

4. Counsel for the petitioner would explain that the petitioner was not given the benefit of time bound promotions to which he was entitled to upon completing 12 years of service and subsequently upon completing 25 years of service. Instead, he was given Senior Selection Grade after 28 years of service on 28.4.1988 with effect from 1.4.1981 in the scale of Rs. 730-15-820-20-980-D.A. A.20-1080. On the above scale, he has retired and the last salary drawn by him was Rs. 6,800/- per month. On

the basis of this salary, his pension was fixed at Rs. 3,400/-.

5. The further contention of the petitioner is that the other similarly situated teachers, namely, Ganesh Khandit and Guruwa Munda being similarly aggrieved, had filed writ applications individually and pursuant to the orders of this court passed in the writ applications,, the respondents had not only extended the monetary benefits to them, but had also fixed their pension after giving them the benefits of two time bound promotions.

The petitioner, demanding similar benefits as extended to the other teachers, had filed representation before the concerned authorities repeatedly, the last being on 9.8.2006, but his demands were not not fulfilled and therefore, the present writ application.

6. Though in the first counter affidavit the stand taken by the Respondents was of total denial of the petitioner's claim, but in the supplementary counter-affidavit filed on behalf of the respondents, it is now informed that the entire matter, was re-examined thoroughly and it has now been decided that the petitioner is entitled for Junior Selection Grade Pay Scale of Rs. 680-965 with effect from 1.4.1981 and to the Senior Selection Grade Pay Scale of 730-1080 with effect from 1.4.1984 notionally, similar to that of the other teacher namely, Guruwa Munda.

7. It is explained that after sanctioning the Junior Selection Grade Pay Scale with effect from 1.4.1981 and Senior Selection Grade Pay Scale with effect from 1.4.1984, the difference of pay scale of the petitioner vis-a-vis Guruwa Munda, has been protected considering the fact that whereas the petitioner was appointed in the Matric. Trained Pay Scale on 1.12.1959, the other teacher namely, Guruwa Munda was appointed on Matric Untrained Pay Scale on 3.3.1962, Respondents have explained that the necessary corrections in the light of the above decision of the respondent authority, needs to be made in the service book of the petitioner after adjustment and proper instruction would be forwarded to the office of the Accountant General, Jharkhand for appropriate action. On the basis of the above statement, learned Counsel for the respondents claims that the petitioner's grievance has been fully redressed and this writ application has become infructuous.

8. Learned Counsel for the petitioner would however not feel satisfied by the purported concession made by the respondents. Objection of the learned Counsel for the petitioner is that the grant of Senior Selection Grade pay scale to the petitioner with effect from 1.4.1984, cannot be deemed to be an act of generosity. Rather, the petitioner was legally entitled to the Senior Selection Grade Pay Scale with effect from 1.4.1984 and the revised scale along with the annual increments in the salary, ought to have been given to him, which has been denied to the petitioner by declaring that the Senior Selection Grade Pay Scale of Rs. 730-1080 though made effective from 1.4.1984, would be considered only as notional.

9. From the rival submissions, it would appear that the respondents have conceded that the petitioner was entitled to the grant of Junior Selection Grade and upon granting such benefit, they had fixed his applicable pay scale of Rs. 680-965, with effect from 1.4.1981. Since the respondents do acknowledge that the petitioner was entitled to the Senior Selection Grade pay scale with effect from 1.4.1984, then there is no reason as to why he should be deprived of the corresponding monetary benefit on such scale together with the annual increments which should have been paid to him from the date when Senior Selection Grade Pay Scale was made applicable to him.

10. Even as per the Chart (Annexure-H) to the counter-affidavit of the respondents, it appears that on 1.4.1981, the scale of pay of the petitioner and Guruwa Munda was equated on the same pay scales. Likewise, the Senior Selection Grade was granted to both of them from 1.4.1984 on equal pay scales. If the Rules relating to grant of Junior Selection Grade is to be applied after 10 years of service in the Matric Trained Pay Scales, the petitioner could have claimed his entitlement in the year 1969 after having completed 10 years of service since the date of his initial appointment. Such eligibility to the other co-employee namely, Guruwa Munda could have accrued sometime in the year 1972 by computing 10 years of service from the date of his initial appointment in the year 1962. Likewise, the petitioner and Guruwa Munda would have become entitled for the grant of Senior Selection Grade Pay Scales after completing 20 years of service, on a gap of three years from each other. If the respondents contend that the benefit of Senior Selection Grade Pay Scale though granted with effect from 1.4.1984 to the petitioner, but the actual pay of such scale was given to him even from 1.4.1981 and the petitioner had drawn his salary on the basis of the Senior Selection Grade Pay Scale from 1.4.1981, then the petitioner may not have any grievance. But if even as suggested by the respondents, the petitioner was granted Junior Selection Grade on 1.4.1981 and his salary was given to him on the basis of the Scale applicable for the Junior Selection Grade and the petitioner had drawn his salary on the same scale from 1.4.1981, then the respondents cannot deny the payment of the monetary benefits to the petitioner by treating the grant of Senior Selection Grade to the petitioner from 1.4.1984 notionally denying him the benefit of such scale from the effective date.

11. Respondents have not informed as to why, even, after acknowledging the fact that the petitioner was entitled for the Senior Selection Grade Pay Scale with effect from 1.4.1984, the same should be treated as notionally and the monetary benefit cannot be given to him, while computing the amount of leave encashment, gratuity and final pension:

12. In the light of the above discussions, I direct the respondents to extend the monetary benefits of Senior Selection Grade Pay Scale which was granted to the petitioner from 1.4.1984 and on such basis, to assess the amount of gratuity, leave encashment and other retiral benefits, and fix his final pension on the basis of the

salary which he would have legitimately drawn as on the date of his retirement. This exercise must be initiated and concluded within a period of four months from the date of receipt / production of a copy of this order.

13. With these observations, this writ application is disposed of.

Let a copy of this order be given to the learned Counsel for the respondents.