

(2007) 07 JH CK 0011**Jharkhand High Court****Case No:** None

Ravikant Pandey and Others

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: July 6, 2007**Citation:** (2007) 4 JCR 281**Hon'ble Judges:** M. Karpaga Vinayagam, C.J.; Amareshwar Sahay, J**Bench:** Division Bench**Final Decision:** Dismissed**Judgement**

1. The appellants have filed this appeal challenging the order dated 9.7.2003 of the learned Single Judge dismissing the writ petition. The petitioners-appellants sought for a mandamus directing the respondents for payment of their arrears of salary for the period 1983 to 1997.

2. In 1981, the Government of Bihar took a decision to appoint Science Teachers and accordingly an advertisement was published in the newspaper. The appellants applied for the same and after interview, their names were included in the list of successful candidates and they were appointed. Some time later, the appellants and others were dismissed from service on the ground that appointment made during the tenure of the Superintendent of Education was cancelled. Challenging the same, the matter was brought to the Patna High Court and ultimately the matter went upto Supreme Court. Pursuant to the directions and observations made by the Supreme Court, the appellants were reappointed in 1997. Now the grievance of the appellants is that they, having been reappointed in 1997, have not been paid their arrears of salary for the period from 1983 to 1997. The learned Single Judge, on consideration of the various aspects of the matter, dismissed the writ petition, holding that they cannot claim arrears of salary. Aggrieved by that order, the petitioners filed this appeal before this Court.

3. The point urged by the counsel for the appellants is that the Supreme Court has specifically directed for reinstatement and for payment of arrears of salary and further some similarly situated persons filed writ petition for the same benefit and obtained orders granting the benefits including payment of arrears of salary.

4. We have considered the submissions made by the counsel for the appellant and we have also heard the counsel for the respondents.

5. It is correctly pointed by the counsel for the respondents that the Supreme Court has specifically stated that if there were no vacancies and all the appellants or some of them have to be appointed in the new vacancies which may be available hereafter, they will not be entitled to the salary from 1st July, 1992 till the date of their appointment and however, when they are appointed, the period of break in service not exceeding one year will be taken into consideration for benefits other than salary. Learned Counsel for the respondents would submit that the petitioners-appellants had been reappointed only under this category.

6. As the Supreme Court said that the period of break in service not exceeding one year will be taken into consideration for benefits other than salary, the conclusion arrived at by the learned Single Judge in dismissing the writ petition cannot, in our view, be said to be invalid. There is no merit in this appeal which is accordingly dismissed.