

(2009) 01 JH CK 0044

Jharkhand High Court

Case No: None

Sudam Ghosh, Chunni Lal
Mandal and Tapashwar Prasad
Verma and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Jan. 21, 2009

Citation: (2009) 2 JCR 335

Hon'ble Judges: Gyan Sudha Mishra, C.J; Dilip kumar sinha, J

Bench: Division Bench

Final Decision: Allowed

Judgement

D.K. Sinha, J.

These three appeals have been preferred against the judgment and order dated 28th August, 2008 passed in a batch of writ petitions wherein the petitioners had prayed for a direction to the respondents to pay them arrears of salary which were not paid during the intervening period in which they were out of service between the year 1984 and 2000. The learned Single Judge was pleased to dismiss the writ petitions in view of the observation of the Hon"ble Supreme Court in S.L.P.(C) No. 10051 of 1990 wherein the learned Judges of the Hon"ble Supreme Court had been pleased to observe that if there are vacancies and there are No trained teachers available, the untrained teachers, who were employed earlier would be reinstated in service, after subjecting them to the selection process and they are found suitable. The Hon"ble Supreme Court had further observed that if there are No vacancies, the untrained teachers would be empanelled according to their seniority and -would be appointed according to their seniority in the vacancies arising in future and unless that panel is exhausted, No new appointments of untrained teachers would be made from outside.

2. The learned Single Judge took into account the aforesaid observation of the Hon"ble Supreme Court and was pleased to hold that the petitioners in all the writ

petitions were not entitled to arrears of salary although they were untrained teachers, who had been removed from service but in view of the judgment and order of the Hon"ble Supreme Court delivered in the matter referred to hereinbefore they were ordered to be absorbed against the future vacancies after going through the selection process but such untrained teachers who were appointed against the future vacancies, were not held entitled to the arrears of salary for the period during which they were out of service.

3. The Counsel for the appellants, however, claimed parity and submitted that discriminatory treatment is meted out to the petitioners-appellants herein as they had been discharging their duties in the past and they have not been held entitled to the arrears of salary, although similarly situated persons were granted arrears of salary.

4. Having considered the submission of the Counsel for the appellants in the light of the reasoning assigned by the learned Single Judge as also in view of the observation of the Hon"ble Supreme Court it is sufficiently clear that the appellants, although claimed that they were on similar footing to those teachers who had been paid the arrears of salary, their claim for arrears of salary is unjustified as they had not discharged their duties in the past since they were untrained teachers and were not entitled for appointment. It is only after the observation of the Hon"ble Supreme Court which granted absorption of the untrained teachers in the case of non-availability of trained teachers, that they were allowed to be adjusted/appointed against the future vacancies. This is how the petitioners were appointed against the future vacancies although they were untrained teachers. Thus their claim that they are similarly situated with those who have been granted arrears of salary is dearly unfounded. This aspect of the matter has been dealt with by the learned Single Judge and the same does not suffer from any infirmity. The claim of the arrears of salary raised by the petitioners-appellants herein, therefore, is clearly not justified and hence these appeals are not fit to be entertained. Consequently the same are dismissed at the admission stage itself.