

(2013) 03 JH CK 0038

Jharkhand High Court

Case No: WP (S) No. 3134 of 2002

Aswini Kumar Kundu

APPELLANT

Vs

The State of Jharkhand and
OthersRESPONDENT

Date of Decision: March 15, 2013**Citation:** (2013) 2 JLR 380**Hon'ble Judges:** S. Chandrashekhar, J**Bench:** Single Bench**Advocate:** P.A.S. Pati, for the Appellant; Manoj Kumar Choubey, for the Respondent

Judgement

S. Chandrashekhar, J.

The petitioner has challenged the Office Order dated 21.3.2001, whereby the 1st Time Bound Promotion given to the petitioner w.e.f. 10.1.1982 has been recalled and it has been ordered that the petitioner would be entitled for the 1st Time Bound Promotion w.e.f. 17.12.1988. The brief facts of the case are that the petitioner was appointed on 10.1.1972 as Assistant Teacher in Sri Ram Krishna High School, Bistupur, Jamshedpur. The petitioner passed B.Ed. examination on 17.12.1978 and he was given Trained Graduate pay scale w.e.f. 17.12.1978. The petitioner was appointed as untrained Graduate Teacher. In terms of Bihar Government Secondary School (Service Conditions) Rules, 1983, the seniority of the teacher was to be counted from the date of initial appointment if the untrained Graduate Teacher was appointed prior to 18.9.1972. The petitioner has further placed reliance on Circular No. 519 dated 2.7.1983. The petitioner was granted 1st Time Bound promotion in 1992 w.e.f. 17.12.1988. The petitioner made several representations and finally by Office Order dated 9.1.2000, the District Education Officer granted 1st Time Bound Promotion to the petitioner w.e.f. 10.1.1982. The aforesaid order was sent to the Special Director (Secondary Education), Bihar, Patna for its approval and the Deputy Director (Secondary Education) communicated the approval to the District Education Officer on 14.3.2000. However, the petitioner was not paid salary in revised pay

scale nor he was granted scale of pay after 1st Time Bound Promotion w.e.f. 10.1.1982. On the contrary, two increments from his salary were withdrawn in February, 1999 w.e.f. November, 1996 without any notice or show-cause issued to the petitioner. In spite of repeated representations, when the petitioner did not get any response, he moved the High Court in C.W.J.C. No. 228 of 2001, which was disposed of by order dated 17.1.2001 with liberty to the petitioner to file a representation before the District Education Officer, Chaibasa. Accordingly, the petitioner submitted his representation on 22.1.2001, which was disposed of by order dated 21.3.2001, whereby the 1st Time Bound Promotion granted to the petitioner w.e.f. 10.1.1982 has been cancelled and it has been ordered that the earlier promotion granted on 17.12.1988 would be restored. The petitioner then filed a Contempt Petition being M.J.C. No. 333 of 2001, which was disposed of with liberty to the petitioner to seek appropriate remedy. The petitioner has challenged order dated 21.3.2001 in the present proceeding.

2. A counter-affidavit has been filed by the respondent No. 2 taking stand that the petitioner was appointed on 10.1.1972 as Assistant Teacher and at that time he was a simple Graduate. He obtained B.Ed. qualification on 17.12.1978. Thus, he became properly qualified for being a Secondary School Teacher only after acquiring the B.Ed. qualification. The 1st Time Bound Promotion can be granted only after completion of ten years of service in B.A. Trained Scale and therefore, the petitioner on completion of ten years from acquisition of B.Ed. qualification on 17.12.1978, was granted 1st Time Bound Promotion w.e.f. 17.12.1978.

3. Heard counsel for both the parties and perused the documents on record.

4. Learned counsel for the petitioner has submitted that in the counter affidavit, the respondent No. 2 has admitted that in so far as the question of seniority is concerned, the petitioner would be entitled for his seniority from the date of his appointment, however, he can be granted 1st Time Bound Scale only on completion of ten years of service after he became properly eligible for appointment as B.Ed. Trained Teacher.

5. From the record of the case, I find that the respondents have conceded that the seniority of the petitioner would be counted from the date of his initial appointment, however, he would not be entitled for grant of 1st Time Bound Promotion on completion of a period of ten years from the date of his initial appointment. The scheme of Time Bound Promotion is to give some incentives to the employees, whose promotional avenues are very few. If the initial appointment of the petitioner can be taken for reckoning his seniority, there is no reason why the petitioner can be denied the benefit of 1st Time Bound Promotion on completion of ten years of service from the date of his initial appointment. Moreover, the petitioner was granted the benefit of Time Bound Promotion w.e.f. 10.1.1982 which was given to him on 19.1.2000 and which was approved by Special Director (Secondary Education). I am of the view that the Order dated 19.1.2000 which was approved by

the Special Director, cannot be cancelled by the District Education Officer. Therefore, it was not proper to recall the benefits already granted to the petitioner. Moreover, the petitioner has already acquired B.Ed. degree and therefore, he should be given the monetary benefit of 1st Time Bound Promotion. However, such benefit would be confined for the period between 10.1.1982 to 17.12.1988 only. It is made clear that the petitioner shall not be entitled for any other benefit on the basis of order passed by this Court in the present proceeding, except as indicated above. The present writ petition is disposed of in the aforesaid terms.