

(2008) 08 JH CK 0069

Jharkhand High Court

Case No: None

Jharkhand Police Association,
Jharkhand Police Men's
Association, Bhola Prasad Yadav
and Purusotam Rai

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Aug. 20, 2008

Citation: (2008) 119 FLR 852 : (2008) 4 JCR 399

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Judgement

D.G.R. Patnaik, J.

Petitioners in this writ application have prayed for quashing the letter No. 822 dated 01.11.2007 issued by the respondent No. 3 under which difficulty allowance (Duru Allowance) of 15% of the salary has been stopped to those police personnel who are not posted in the police stations and are posted either in the police lines or in the police head quarters.

2. Learned Counsel for the petitioners explains that under a notification vide letter dated 25.05.2005 (Annexure-1) issued by the Home Department of the State Government, difficulty allowance was to be paid to all such police personnel posted in such districts which have been declared by the Central Government as naxal affected districts. Pursuant to the aforesaid notification of the Home Department, the respondent No. 4 has issued a direction for payment of difficulty allowance to all the police personnel posted in the district of Lohardaga including those who are posted in the police lines and police headquarters of the district. However, by the impugned order, the respondent No. 2 has directed stopping of payment of the difficulty allowance to the police personnel including the petitioners who were posted in the police lines or in the police headquarters in the district. Learned Counsel explains further that though the impugned order was issued on 01.11.2007,

but having issued the letter, the respondent No. 2 has subsequently sought a clarification vide his letter dated 05.03.2008 addressed to the Home Department as to whether the scheme for payment of difficulty allowance is applicable to the police personnel posted in the police lines and in the police headquarters. Learned Counsel submits that till date no instructions have been received by the respondent No. 2 from the Home Department and therefore, in the light of the clarification sought for by the respondent No. 2 by his subsequent letter dated 05.03.2008, the impugned order does not have any force neither it is operative. It is further argued that since Home Department has issued the notification giving the benefit of such scheme, it is the Home Department alone which can either withdraw or modify its order relating to the scheme and the respondent No. 2 has no authority whatsoever to withdraw the benefit of the scheme to the petitioners or to make any discrimination in the matter.

3. A counter affidavit has been filed on behalf of the respondents annexing therewith a document marked as "annexure-A" which is the letter dated 05.03.2008 addressed to the Deputy Secretary, Home Department, Government of Jharkhand issued from the office of Director General of Police. This is the letter referred to by the learned Counsel for the petitioner also, under which clarification has been sought for from the Home Department regarding the applicability of the scheme to the police personnel posted in the police lines and in the police headquarters.

4. From the facts and circumstances, it appears that though vide Annexure-1, the benefit of the scheme was made applicable to all the police personnel posted in the districts which have been declared by the Central Government as naxal affected districts and pursuant thereto the police personnel including those who are posted in the police lines, police headquarters and in the police pickets, also used to be given the difficulty allowance, there is no further notification issued by the Home Department either withdrawing the scheme to all or any of the police personnel posted in such districts. It also appears that the respondent No. 2 who has issued the impugned order withdrawing the benefit of the scheme to the section of the police personnel posted in the district of Lohardaga is himself not certain as to whether the benefit of such scheme should or should not be made applicable to the police personnel posted in the police lines and headquarters.

5. Learned Counsel for the petitioners invites attention to the fact that even though the petitioners are posted in the police lines and police headquarters, but there services are regularly taken during patrolling in far off and distant places in the naxal affected areas and therefore, they cannot be denied the benefit of the scheme.

Be that as it may, since the matter presently rests at the level of seeking clarification and instruction from the Home Department regarding the applicability of the scheme to the police personnel posted in the district, the impugned order cannot be given effect to and as such it is hereby set aside. Till the Home Department of the

State Government issues any directive/instruction to modify the earlier notification, the privilege which has earlier been extended to the petitioners and police personnel who were placed in similar circumstances, shall continue to be given same privilege.

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