

Dhanesh Kumar Singh and Ors Vs. Education

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Court : Jharkhand

Decided On : Dec-14-2017

Appellant : Dhanesh Kumar Singh and Ors

Respondent : Education

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 502 of 2016 1. Dhanesh Kumar Singh 2. Balmiki Thakur 3. Jiwan Kumar Singh 4. Girish Kumar Jha 5. Madan Mohan Jha 6. Artran Pradhan 7. Souro Kumar Dubey 8. Binayak Kumar Petitioners Versus 1. The State of Jharkhand through the Secretary, Department of School Education & Literacy, Govt. of Jharkhand, Dhurwa, Ranchi 2. The Director, Primary Education, Govt. of Jharkhand, Department of School Education & Literacy, Dhurwa Ranchi 3. Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Saraikella Kharsawan 4. The District Superintendent of Education, Saraikella-Kharsawan .. Respondents With W.P.(S) No. 1826 of 2017 1. Surendra Das 2. Kishore Kumar Ram 3. Mohan Mahtha 4. Satya Narayan Das 5. Ram Chandra Das 6. Ram Prasad Das 7. Gopal Chandra Das 8. Madhusudan Mahtha .. . Petitioners Versus 1. The State of Jharkhand.

2. The Principal Secretary, School Education & Literacy Department, Govt. of Jharkhand, Dhurwa, Ranchi 3. The District Superintendent of Education, Deoghar, Deoghar 4. The Block Education Extension Officer, Jasidih, Deoghar . . . Respondents With W.P.(S) No. 5520 of 2013 Shubhankar Kumar Prasad . Petitioner Vs.

1. The State of Jharkhand through its Secretary, HRD Department, Primary Education, Govt. of Jharkhand, Ranchi 2. The Director, HRD Department, Primary Education, Govt. of Jharkhand, Ranchi 3. District Superintendent of Education, Gumla, Gumla Respondents with W.P.(S) No. 430 of 2014 Anil Kumar Shukla .. Petitioner Vs.

1. The State of Jharkhand, through the Principal Secretary, HRD Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, HRD Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner, Lohardaga 4. The District Superintendent of Education, Lohardaga .. Respondents with W.P.(S) No. 6333 of 2014 1. Mihir Kumar Mahto 2. Ravi Kumar Nayak . Petitioners Vs.

1. The State of Jharkhand through the Secretary, HRD Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, HRD Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner, Ranchi 4. The District Superintendent of Education, Ranchi Respondents with W.P.(S) No. 2638 of 2015 Vinay Kumar Singh . Petitioner Vs.

1. The State of Jharkhand through Secretary, HRD Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, HRD Department, Govt. Of Jharkhand, Ranchi 3. The Deputy Commissioner, Chatra, Chatra 4. The District Superintendent of Education, Chatra Respondents with W.P.(S) No. 3234 of 2015 1. Ashok Kumar Yadav 2. Chandra Shekhar Singh 3. Vijay Prasad Dangi 4. Ranjan 5. Rajendra Ram 6. Sapna Sinha 7. Ashok Kumar Gupta 8. Md. Rizwanullah 9. Md. Arif Hashmi 10. Naresh Kumar Sahu 11. Jitendra Kumar Mahto 12. Dilip Kumar 13. Lalit Kumar Petitioners Vs.

1. The State of Jharkhand through the Secretary, HRD Development, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, HRD Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner, Chatra 4. The District Superintendent of Education, Chatra . Respondents with W.P.(S) No. 3268 of 2015 Punam Rani . Petitioner Vs.

1. The State of Jharkhand through the Secretary, HRD Department, govt. of Jharkhand, Ranchi 2. The Director, Primary Education, HRD Department, Govt. of

Jharkhand, Ranchi 3. The Deputy Commissioner, Palamau, Palamau 4. The District Superintendent of Education, Palamau Respondents with W.P.(S) No. 3351 of 2015 1. Kumar Vikash Prasad kaushik 2. Uday Kumar Singh 3. Anup Kumar Upadhyay Petitioners Vs.

1. The State of Jharkhand through the Secretary, HRD Department, govt. of Jharkhand, Ranchi 2. The Director, Primary Education, HRD Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner, Chatra 4. The District Superintendent of Education, Chatra Respondents with W.P.(S) No. 4442 of 2015 1. Bindu Kumari 2. Pradeep Kumar Chowhan . Petitioners Vs.

1. The State of Jharkhand through the Secretary, HRD Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, HRD Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner, Dhanbad 4. The District Superintendent of Education, Dhanbad . Respondents with W.P.(S) No. 4449 of 2015 1. Vijay Kumar Prajapati 2. Amulya Ratna Dwivedi 3. Md. Khalid Husain Petitioners Vs.

1. The State of Jharkhand through the Secretary, HRD Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, HRD Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner, Latehar 4. The District Superintendent of Education, Latehar . Respondents with W.P.(S) No. 120 of 2016 1. Rakesh Kumar 2. Sanjeev Kumar Raizada 3. Devesh Kumar Trivedi . .. Petitioners Vs.

1. The State of Jharkhand through the Secretary, Department of School Education & Literacy, Govt. of Jharkhand, Ranchi 2. The Director, Department of School Education & Literacy, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner-cum-Chairman District Education Establishment Committee, Dhanbad 4. The District Superintendent of Education, Dhanbad with W.P.(S) No. 514 of 2016 Baidyanath Prajapati . Petitioner Vs.

1. The State of Jharkhand through the Secretary, School Education& Literacy Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 3. The

Deputy Commissioner, Lohardaga 4. The District Superintendent of Education, Lohardaga Respondents with W.P.(S) No. 2329 of 2016 1. Wakil Prasad Chourasia 2. Pankaj Kumar Sinha 3. Indrajeet Prasad 4. Om Prakash Sinha 5. Basudeo Yadav 6. Anandi Prasad Singh 7. Anant Kumar 8. Saryu Prasad 9. Raj Kishor Prasad Sharma 10. Rameshwar Prasad Jaiswal 11. Sachindra Nath Mukharjee Petitioners Vs.

1. The State of Jharkhand through the Secretary, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner, Sahibganj 4. The District Superintendent of Education, Sahibganj Respondents with W.P. (S) No. 3978 of 2016 1. Bijay Kumar Singh 2. Awadesh Kumar Verma 3. Parsuram Mahto 4. Nirakar Mahto 5. Zaffrulah Ansari 6. Shyam Gagrai 7. Sudhir Kumar Rajak 8. Devenanad Keshri .. Petitioners Vs.

1. The State of Jharkhand through the Secretary, Department of School Education & Literacy, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, Govt. of Jharkhand, Department of School Education & Literacy, Govt. of Jharkhand, Ranchi 3. Deputy Commissioner-cum-Chairman, District Education Establishment Committee, West Singhbhum 4. The District Superintendent of Education, West Singhbhum .. Respondents with W.P.(S) No. 4202 of 2016 Surendra Kumar . Petitioner Vs.

1. The State of Jharkhand 2. The Director, Primary Education, State of Jharkhand, Ranchi 3. The District Superintendent of Education, Singhbhum, Chaibasa, Singhbhum 4. The Block Education Extension Officer, Manoharpur, Singhbhum ... Respondents with W.P.(S) No. 5709 of 2016 1. Bijay Kumar Mondal 2. Nil Madav Singh 3. Basuki Nath Paul 4. Ananta Kumar Mondal 5. Ardendhu Prasad Mondal Petitioners Vs.

1. The State of Jharkhand through the Secretary/Principal Secretary, HRD Department, Dhurwa, Ranchi 2. The Director, Primary Education, HRD Department, Dhurwa, Ranchi 3. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Jamtara, Jamtara 4. The District Superintendent of Education, Jamtara Respondents with W.P.(S) No. 356 of 2017

1. Ram Naresh Prajapati 2. Ramnit Shukla 3. Radhey Shyam Mishra Petitioners Vs.

1. The State of Jharkhand through the Secretary, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner, Gumla 4. The District Superintendent of Education, Gumla Respondents with W.P.(S) No. 2653 of 2017 Hafiz Mohammad Naushad Alam .
..Petitioner Vs.

1. The State of Jharkhand through the Secretary, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner, Chatra 4. The District Superintendent of Education, Chatra . Respondents with W.P.(S) No. 2658 of 2017 Md. Nasimuddin . Petitioner Vs.

1. The State of Jharkhand through the Secretary, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner, Chatra 4. The District Superintendent of Education, Chatra . Respondents with W.P.(S) No. 3185 of 2017 Purnima Bala Mandal Petitioner Vs.

1. The State of Jharkhand through the Secretary, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Jamtara 4. The District Superintendent of Education, Jamtara . Respondents ` with W.P.(S) No. 3221 of 2017 1. Amar Chandra Gorain 2. Sk. Asraf Ali 3. Tapan Kumar Dey 4. Anirudh Chakraborty 5. Sunil Kumar Mandal 6. Ajit Kumar Sadhu 7. Chandi Charan Mandal 8. Santi Ram Manna 9. Ambika Prasad Layek 10. Jay Gopal Dey 11. Sita Ram Mandal 12.Suresh Chandra Mandal 13. Ashok Kumar Dutta 14. Anil Kumar Mondal 15.Balram Ghosh 16.Kirti Mohan Dutta 17.Bharat Chandra Mondal 18. Swapan Kumar Bhattacharyia 19.Dhirendra Nath Layek 20.Balram Mandal 21.Jay Gopal Ghosh 22.Mukund Baran Kabiraj 23.Nimai Chandra Mandal 24.Shishir Kr. Tewary 25.Narsingh

Mandal 26.Renu Kumari 27.Yogendra Nath Pandey 28.Naba Kumar Pandit 29.Rebati Ranjan 30.Sufal Pandit 31.Indrajeet Kumar 32.Mantu Gorain 33.Dibakar Mandal 34.Uma Pada Manto 35.Khlequezama Soin 36.Hamid Mian 37.Anant Kumar 38.Daud Ansari 39.Dharmendra Sharma 40.Lal Kumar Jha . . Petitioners Vs.

1. The State of Jharkhand through the Secretary, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Jamtara 4. The District Superintendent of Education, Jamtara . Respondents with W.P.(S) No. 5275 of 2017 1. Sanjay Kumar 2. Shatrughan Singh Petitioners Vs.

1. The State of Jharkhand through the Secretary, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 2. The Director, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 3. The Deputy Commissioner, Giridih 4. The District Superintendent of Education, Giridih . Respondents With W.P.(S) No. 5833 of 2017 Shivkant Bharti . Petitioner Vs.

1. The State of Jharkhand 2. The Secretary, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 3. The Director, Primary Education, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 4. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, West Singhbhum, Chaibasa 5. The District Superintendent of Education, West Singhbhum, Chaibasa 6. The Area Education Officer, Chakardharpur, West Singhbhum . Respondents with W.P.(S) No. 5902 of 2017 Ponda Deogam Petitioner Vs.

1. The State of Jharkhand 2. The Secretary, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 3. The Director, Primary Education, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 4. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, West Singhbhum, Chaibasa 5. The District Superintendent of Education, West Singhbhum, Chaibasa, West Singhbhum . . Respondents with

W.P.(S) No. 5927 of 2017 1. Smt. Astomi Kumari Dei 2. Keshav Chandra Pradhan . Petitioners Vs.

1. The State of Jharkhand through the Secretary, School Education & Literacy Department, Govt. of Jharkhand, Ranchi 2. The Director, Primary Education, Govt. of Jharkhand, Department of School Education, Ranchi 3. The Deputy Commissioner-cum-Chairman District Education Establishment Committee, West Singhbhum, Chaibasa, West Singhbhum 4. The District Superintendent of Education, West Singhbhum, Chaibasa, West Singhbhum . Respondents -----

CORAM: HON'BLE MR. JUSTICE DR. S. N. PATHAK ----- For Petitioners : Mr. Rajiv Ranjan, Sr. Advocate Mr. Shresth Gautam Advocate Mr. Shray Mishra, Advocate [In W.P.(S) Nos. 3185/2017, 3221/2017, 5709/2016] Ms. Ritu Kumar, Advocate Mr. Lalit Yadav, Advocate Ms. Shatakshi, Advocate [In W.P.(S) No. 1826/2017] Mr. Amit Kumar Tiwari, Advocate [In W.P.(S) Nos. 430/14, 6333/14, 2638/15, 3268/15, 3351/15, 4442/15, 4449/15, 514/16, 2329/16, 356/17, 2653/17, 2658/17 and W.P.(S) No. 5275/2017] Mr. Kumar Vaibhav, Advocate Mr. Vikas Kumar, Advocate Mr. Nagendra Tiwari, Advocate Mr. Sanjay Kr. Dubey, Advocate Mr. Prabhat Singh, Advocate Mr. Tejo Mistry, Advocate Mr. M. M. Sharma, Advocate For Respondents : Mr. H.K. Mehta, AAG Mr. Rakesh Kr. Shahi, JC to AAG [In W.P.(S) No. 502 of 2016] Ms. Sunita Kumari, JC to Sc (L & C) [in W.P. (S) No. 2658 of 2017] Mr. Bhawesh Kumar, SC-II Mr. Ramanand Paul, JC to SC-II [In W.P.(S) No. 6333 of 2014] Mr. Shadab Bin Haque, JC to GP-I [In W.P. (S) Nos. 3234/2015, 3351/2015] Mr. Shyam narsaria, JC to GA-IV [In W.P.(S) No. 5709/2016] Mrs. Chandra Prabha, SC-IV Mr. Rohit, JC to SC-IV [In WP(S) No. 5927/2017, 120/2016] Mrs. Neelam Tiwary, JC to Sr. SC-I [In W.P.(S) No. 4442 of 2015] Mr. Anuj Burman, JC to SC-V [In W.P.(S) No. 1826 of 2017] Mr. Satish Kumar, JC to GA [In W.P.(S) No. 3221 of 2017] JC to SC-III JC to SC(L& C)

----- 12/ 14.12.2017 In all these writ petitions, similar issues are involved. Hence, these are being disposed of with this common order. The petitioners are claiming similar benefits what has been given to the appointees of 1987, 1989, 1994 and 2000 etc. vide Resolution dated 14.12.2015. By the said Resolution also monetary benefit has not been extended to the other teachers while granting Grade-I to them. In all the cases prayer has been made to immediately and forthwith grant of Grade-I scale to the petitioners (including compassionate

appointees) from their respective date of joining in services and upon granting the benefits of Grade-I scale to the petitioners, further prayer has been made for grant of subsequent grades including Grade-IV, reckoning the Grade-I scale from the date of their joining with all consequential benefits and to count seniority of the petitioners from date of their joining. All the petitioners (including compassionate appointees) are teachers, appointed in different years, working in different Govt. Schools in the different Districts of State of Jharkhand. At the time of appointment, all the petitioners were untrained teachers however, they were either Graduate or Post Graduate. These untrained teachers in view of orders passed by the Hon'ble Patna High Court were sent for training and successfully completed the said training. After acquiring the requisite training, the respondents granted the Grade-I Scale to the petitioners from the date of completion of training. Subsequently, Grade-II scale have also been granted to the some of the petitioners by reckoning the Grade-I from the date of acquiring of training and not from the date of joining. Aggrieved by the said decision of the State Government, the petitioners approached this Court in case of Arun Sinha & Ors. Vs. the State of Jharkhnad & Ors. in W.P.(S) No. 638 of 2006, whereby and whereunder, it has been held that the petitioner's case should be considered for fixing their seniority from the date of their appointment. They should also be considered for giving benefit of Grade-IV scales after completion of 8/12 years of the services. This observation of the Court was affirmed up to Hon'ble the Apex Court. It is the further case of the petitioners that in view of the observations of the Hon'ble Courts, the petitioners are entitled for grant of Grade-I scale from the date of their joining and thereafter, all subsequent promotions/scales ought have to be given to the petitioners by counting their seniority from the date of their joining in service. Thereafter, the respondents have issued a Resolution bearing No. 3027 dated 14.12.2015 regarding grant of Grade-I scale from the date of joining to the teachers appointed in the year 1987, 1988, 1994 and 2000. But, the name of petitioners who were appointees of years other than as mentioned above, does not find place in the aforesaid Resolution dated 14.12.2015 and such benefits were not granted to them except to the petitioner in WP(S) 514/2016 which was later on withdrawn. The petitioners are mainly aggrieved by the non-consideration of their cases for grant of Grade-I scale from the date of their joining and further to grant of

subsequent grades with all consequential benefit and also to extend the benefits of Resolution dated 14.12.2015. As the said benefits were not granted to the present petitioners, they have rushed to this Court, by filing these writ petitions. Learned counsels appearing on behalf of the petitioners submit that the petitioners (including compassionate appointees) are entitled for all consequential benefits and promotions from their respective date of joining. Learned counsels further argue that suffice it would be if the respondents are directed to consider their cases in view of specific averment made in paragraph Nos. 8 & 9 of the counter affidavit dated 05.12.2017. Learned counsels further argue that a direction may be given to the respondents for considering the cases of the petitioners within stipulated period. Mr. H. K. Mehta, learned AAG assisted by other counsels appearing on behalf of the respondents very fairly submits that already the State has filed counter-affidavit dated 05.12.2017 in W.P. (S) No. 502 of 2016 in compliance of the earlier order passed in W.P.(S) No. 2266 of 2014. Learned counsel draws the attention to the Court towards paragraph Nos. 8 & 9 of the said counter-affidavit that A High Level Committee vide order dated 25.10.2017 headed by the Joint Secretary of the Department was constituted for reviewing the existing Resolution No. 3027 and Committee has submitted its report on 16.11.2017 in which the Committee has recommended that the benefits of the Resolution dated 14.12.2015 can be extended to all the petitioners and similarly situated employees including the compassionate appointees. A memorandum along with recommendation of the Committee will be sent for concurrence of Finance Department and the same would be then sent for the approval of the Cabinet. Be that as it may, having gone through the rival submissions of the parties, this Court is of the considered view that the case of the petitioners needs consideration. Since the law is well settled and now the issue is no more res integra that seniority will be counted from the date of initial appointment and not from the date of completion of training and while considering promotion to Grade-I and to subsequent Grades, the same ratio applies. Therefore, the petitioners are entitled for promotions to Grade-I scale and further to subsequent grades as applicable to individual petitioners with all consequential benefits from the date of their initial appointment. Since the respondents have already taken into consideration the cases of the petitioners and have admitted in paragraph 8 of the Counter-affidavit

dt. 05.12.17 that the benefits of Resolution dated 14.12.2015 can be extended to all the petitioners and similar situated employees including the compassionate appointees, no fresh direction is required. After following all the procedures regarding the concurrence of Finance Department and approval of the Cabinet, let a final order be passed for consideration of the cases of petitioners in view of Resolution dated 14.12.2015. As a cumulative effect of the aforesaid rules, guidelines and legal propositions, I hereby direct the respondents to consider the cases of the petitioners in view of Paragraph Nos. 8 & 9 of the counter-affidavit dt. 05.12.17 and to pass a reasoned order regarding their promotions and other consequential benefits in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order. Needless to say, the respondents may consider the individual cases of the petitioners as per their facts and pass a reasoned order in accordance with law within stipulated period as mentioned above. Further, recovery order dated 11.06.2015 so far as it relates to the petitioner in W.P.(S) No. 514 of 2016 is quashed and set aside and recovery, if any already made, may be refunded, in accordance with law. With the aforesaid observations, these writ petitions stand disposed of. (Dr. S.N. Pathak,J.) /punit/-

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