

Devendra Prasad Pandey and Ors Vs. Labour

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Court : Jharkhand

Decided On : Jul-19-2016

Appellant : Devendra Prasad Pandey and Ors

Respondent : Labour

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 4137 of 2015

1. Devendra Prasad Pandey 2. Kedar Nath Prasad 3. Bikrama Ram 4. Dudheshwar Vishwakarma 5. Tej Narayan Singh 6. Shatrughna Prasad Singh 7. Tapeswar Singh 8. Sheo Nandan Thakur 9. Ram Iqbal Mehta 10. Gauri Shankar Prasad 11. Md. Nazir Ali 12. Mundrika Singh 13. Dharmnath Pandit 14. Chandeshwar Prasad 15. Sri Ram Mishra Petitioners Versus 1. The State of Jharkhand through the Principal Secretary, Department of Labour, Employment & Training, Government of Jharkhand, Ranchi.

2. The Principal Secretary/Secretary, Department of Finance, Government of Jharkhand, Ranchi.

3. The Deputy Secretary to the Government of Jharkhand, Department of Finance, Ranchi.

4. The Director, Employment & Training, Department of Labour, Employment & Training, Government of Jharkhand, Ranchi.

5. State of Bihar through the Principal Secretary, Department of Labour, Employment & Training, Govt. of Bihar, Patna.

6. The Director, Employment & Training, Department of Labour, Employment & Training, Government of Bihar, Patna. .. Respondents ----- CORAM : HONBLE MR. JUSTICE H. C. MISHRA ----- For the Petitioners : Mr. Arvind Kumar Singh, Advocate For the Respondent Nos. 1 to 4 : Mr. H.K. Mehta, AAG & Ms. Kanchan Kumari, JC to AAG ----- 5/ 19.07.2016 Heard learned counsel for the petitioners and learned counsel for the respondent Nos. 1 to 4.

2. The petitioners were earlier working in the unified State of Bihar and after creation of State of Jharkhand, they were working in the State of Jharkhand as Instructors in different ITIs, from which posts, the petitioners have retired. Taking into consideration the services of the petitioners, the petitioners were given the benefits of 1st and 2nd ACPs with effect from 9.8.1999. The monetary benefits thereof were given with effect from 15.11.2000, i.e., the date -2- from which the State of Jharkhand was created. The benefits of ACPs have been given to the petitioners, pursuant to the scheme of ACP framed by the State of Jharkhand, by resolution contained in memo No. 5207 dated 14.8.2002. According to the scheme of ACP, the employees of the State Government upon completion of 12/24 years of regular satisfactory service are entitled to the benefits of 1st ACP / 2nd ACP. One of the conditions for granting the benefits of ACP is that the benefits of ACP shall be granted with effect from the date of qualification for the same or from 9.8.1999 whichever is later, and the monetary benefits would be paid only from 15.11.2000. No monetary benefit prior to 15.11.2000 is payable. The petitioners are aggrieved with this condition of the scheme and they are claiming that they should be given the monetary benefits for the period from 9.8.1999 to 14.11.2000 also, during which they were given the benefits of ACP.

3. The record shows that the petitioner No.1 had earlier moved in W.P. (S) No. 4753 of 2005 for the same relief, which was disposed of by order dated 22.1.2013, as contained in Annexure-2 to the writ application, directing the petitioner to approach the Secretary, Department of Labour, Employment & Training, Government of Jharkhand by filing a fresh representation, which was to be

disposed of by a speaking order. Pursuant to the said order, the impugned order dated 6.3.2013 has been passed by the Principal Secretary of the Department of Labour, Employment & Training, Government of Jharkhand, whereby, placing reliance upon the scheme of ACP, as contained in memo No. 5207 dated 14.8.2002, the claim of the petitioner has been rejected stating that as per the scheme, the monetary benefit is restricted only from the date of creation of the State of Jharkhand, i.e., 15.11.2000 and it is clearly mentioned in the scheme of ACP that no monetary benefit would be granted for the period prior to 15.11.2000. Accordingly, the representation of the petitioner No.1 has been rejected by the impugned order dated 6.3.2013, which has been brought on record as Annexure-2/1 to the writ application.

4. Learned counsel for the petitioners has submitted that the scheme of ACP, so far it denies to the monetary benefits prior to 15.11.2000, is absolutely illegal and arbitrary and violative of the Articles 14 and 16 of the Constitution of India. It is submitted that the petitioners, who have been given the benefits of ACPs from 9.8.1999 should also be given the monetary benefits thereof, for the intervening period. -3- 5. Learned counsel for the respondent-State, on the other hand, has opposed the prayer and it is submitted that this is the policy decision of the State Government to make the payment of benefits only with effect from the date from which the State of Jharkhand was created and accordingly, there is no illegality in non-payment of monetary benefits of ACPs to the petitioners from 9.8.1999 to 14.11.2000.

6. Having heard learned counsels for both the parties and upon going through the record, as also upon going the scheme of ACP, as contained in Annexure-1 to the writ application, I find that the scheme has been properly framed giving the benefits of promotion to those employees of the State Government, who are working for 12/24 years, but could not be promoted to the higher post. The State Government has taken care to give the benefits of ACPs to those employees with effect from the date they have completed regular satisfactory services of 12/24 years or from 9.8.1999 whichever is later. However, since the State of Jharkhand was created on 15.11.2000, the monetary benefits thereof have been restricted by the State of Jharkhand to 15.11.2000 onwards only. No employee in the State of

Jharkhand has been paid any monetary benefit under the ACP scheme for the period prior to 15.11.2000 and this stand has also been taken in the impugned order dated 6.3.2013 passed by the Principal Secretary to the Government of Jharkhand in its Department of Labour, Employment & Training, as contained in Annexure-2/1 to the writ application. I do not find any illegality in the impugned order.

7. There is no merit in this writ application and the same is accordingly, dismissed.
(H. C. Mishra, J.) R.Kr.

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