

Chidanand Jha and Anr Vs. Human Resource Development

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Court : Jharkhand

Decided On : Aug-11-2016

Appellant : Chidanand Jha and Anr

Respondent : Human Resource Development

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 215 of 2013 with I.A. No.1639 of 2016 1. Chidanand Jha 2. Jagdish Prasad Yadav
Petitioners Versus 1. The State of Jharkhand.

2. Principal Secretary, Human Resources Development Department, Govt. of Jharkhand, Ranchi.

3. Director (Secondary Education), Human Resources Development Department, Govt. of Jharkhand, Ranchi.

4. District Education Officer, Deoghar.

5. Principal, Pandit Binodanand Jha Balika Sanskrit Parathmik Sah Madhyamik Vidyalaya, Deoghar. . Respondents CORAM: HONBLE MR. JUSTICE H.C. MISHRA
For the Petitioners : Mr. Vijay Shanker Jha, Advocate Mr. Manish Kumar, Advocate
For the Respondents : J.C. to AAG ----- 6/11.08.2016 Heard learned counsel for the petitioners and learned counsel for the State.

2. Petitioners are aggrieved by the order bearing No.2878 dated 25.10.2012, passed by the Respondent No.3, Director (Secondary Education), as contained in Annexure-13/1 to the writ application, whereby, the claim of the petitioners for payment of their salary w.e.f. April 1990, has been rejected by the Respondent No.3.

3. Petitioners had earlier filed W.P.(S) No.2314 of 2003 with respect to their claim, which was finally disposed of by order dated 2.3.2012, as contained in Annexure-1 series, wherein the case of the petitioners has been detailed. The case of the petitioners is that the petitioner No.1 is Class III and the petitioner No.2 is a class IV employee of Pandit Binodanand Jha Balika Sanskrit Prathamik Sah Madhyamik Vidyalaya, Deoghar, which is a Non-Government School, recognised by Bihar Sanskrit Shiksha Board, Patna, and the affairs of the said School are being managed by a Managing Committee of the school. After establishment of the School in the year 1981, the petitioners were appointed on non-teaching posts of clerk and peon respectively, through appointment letter issued on 01.03.1981 by the Managing Committee, as the selection of the petitioners by the Selection Committee was accepted by the Managing Committee of the school. Even the budgetary provisions were made for payment of salary to the petitioners and from the year 1985 to 1990, the petitioners were paid their salary along with the other teaching staff of the school through Bihar Sanskrit Shiksha Board, Patna. After the year 1990, the payments of salary of the petitioners were stopped, though the petitioners claim that they were still working in the school.

4. In the aforesaid writ application, by order dated 2.3.2012, the petitioners were directed to give a joint representation to the Director (Secondary Education), Human Resources Development Department, Government of Jharkhand, who was -2- directed to decide the representation, and if the claims of the petitioners were found genuine, the payment of salary be released to the petitioners. Pursuant to the aforesaid direction, the representation of the petitioners was considered by the Respondent No.3, Director (Secondary Education), Human Resources Department, Government of Jharkhand, who has passed a detailed order bearing No.2878 dated 25.10.2012, which has been challenged in the present writ application. In the impugned order, the Respondent No.3 has stated that the

petitioners were appointed in Pandit Binodanand Jha Balika Sanskrit Parathmik Sah Madhyamik Vidyalaya, Deoghar, on the post of clerk and peon by the Managing Committee of the School and their appointments were also approved by the Secretary, Bihar Sanskrit Shiksha Board, Patna, vide letter dated 22.07.1986. The school of the petitioners belongs to category 222 Sanskrit Schools, which were recognised by the Bihar Sanskrit Shiksha Board, Patna, and the payments of salary to the staff of the said schools were being made through the Bihar Sanskrit Shiksha Board, Patna. The petitioners were also given their salary from 01.01.1985 to 31.03.1990 by Bihar Sanskrit Shiksha Board, Patna. It is further stated in the said order that subsequently, letter No.1409 dated 17.11.1993 was issued by the Bihar Sanskrit Shiksha Board, Patna, with respect to the category of 222 Non-Government approved Sanskrit schools and it was stated that in those schools, the posts of clerk and peon were not sanctioned by the State Government and accordingly, a separate order was issued by the Bihar Sanskrit Shiksha Board on 20.01.1994 for stopping the payments of non-teaching staff of such schools and thereafter the payment of salary of the petitioners were also stopped, but the payment of the teachers in the schools were continued through Bihar Sanskrit Shiksha Board, Patna, till the year 1997, and they are still being paid their salary. It was also stated in the said order that the pay bills of the teaching and non-teaching staff of the school from 1.04.1990 to 31.03.1992 was also sent to Bihar Sanskrit Shiksha Board, Patna, but the names of the petitioners were struck off by the Bihar Sanskrit Shiksha Board and only the payment of salary of the teaching staff was released by the Sanskrit Shiksha Board, Patna, as in this category of the schools, the posts of non-teaching staff were not sanctioned. Accordingly, the respondent No.3, Director (Secondary Education) has rejected the claim of the petitioners for payment of salary w.e.f. 1990.

5. Learned counsel for the petitioners has submitted that the impugned order passed by the Respondent No.3 is absolutely illegal, in as much as, the budgetary provisions were made, in which the names of the petitioners also found place and same was submitted for payment of salary to the petitioners, even in the years 2008 and 2009, but the payment of the salary has not been released in favour of the petitioners. Learned counsel has also drawn the attention of this Court towards the Rules framed by the then State of Bihar for the approval of the schools, which

has been brought on record as Annexure-10 to the writ application -3- and it is submitted that in these rules, there is provision for post of non-teaching staff also. However, learned counsel for the petitioners could not bring any order on record to show that the post of the non-teaching staff in the school of the petitioners was sanctioned by the then State of Bihar.

6. Learned counsel for the State on the other hand has opposed the prayer submitting that the claim of the petitioners has been rejected by the Respondent No.3, by a reasoned order, which shows that even if, the petitioners are claiming to be working in the school, they are apparently working against the non-sanctioned posts. Learned counsel accordingly, submitted that no relief can be granted to the petitioners.

7. Having heard learned counsels for both the sides and upon going through the record, particularly the impugned order passed by the respondent No.3, upon direction of this Court in WP(S) No.2314 of 2003, it is apparent that though the petitioners were appointed on non-teaching posts in the school in question, their posts were not approved / sanctioned by the then State of Bihar, due to which, the payments of salary to the petitioners were stopped by the Bihar Sanskrit Shiksha Board, Patna, by letters dated 17.11.1993 and 20.01.1994 respectively, as detailed in the said order. Learned counsel for the petitioners has not been able to bring any order on record to show that the post of non-teaching staff was sanctioned in the school of the petitioners by the unified State of Bihar.

8. In that view of the matter, since the posts of the petitioners were not approved / sanctioned by the then State of Bihar, I am of the considered view that no case is made out for giving any direction for payment of salary to the petitioners for working against non-sanctioned posts, even if, petitioners claimed to be working on the posts.

9. There is no merit in this application and the same is accordingly dismissed. The interlocutory application filed in this case also stands disposed of. (H. C. Mishra, J)
R.Kumar