

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 7065 of 2013

Malti Kumari Petitioner

Versus

The State of Jharkhand & Ors. Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Mr. Pandey Neeraj Rai, Advocate

For the Resp. State : Mr. Apoorv Singh, AC to SC (Mines)-II

14/ 09.09.2021 Heard through V.C.

2. Order dated 03.08.2021 reads as follows:

“Pursuant to the order dated 28.06.2021, a supplementary counter affidavit has been filed by the State. By the said order, two queries were made out of that the second query was that “when the appellate order at Paragraph No.4(III) has observed that the petitioner is also entitled for grant of promotion of Grade IV which has been given to the junior, then why that order has not been implemented”. In this regard no specific reply has been filed by the State in the supplementary counter affidavit.

2. From the counter affidavit which has been filed earlier, at paragraph No.19, it has been stated that since the petitioner has retired from service on 31.01.2014, hence her name was not included in the seniority list prepared in the year 2016.

In the supplementary counter affidavit they have taken a ground at paragraph No.8 that the petitioner never submitted her representation and also not submitted her date to include/correct her name and position in the seniority list.

3. This Court fails to understand that when there is specific order of the respondent itself to look into the matter as the junior has been given

promotion, such a flimsy ground on the affidavit cannot be appreciated.

4. In view of the aforesaid fact, let the District Superintendent of Education, Ranchi be personally present to address this Court on the next date of hearing. Learned counsel for the respondent-State is directed to extend the link to the said Officer.

5. Put up this case on 01.09.2021.”

3. Pursuant to the aforesaid order, the District Superintendent of Education, Ranchi appeared before this Court and submits that in various cases the Hon'ble High Court was pleased to observe that seniority of an employee must be decided from the date of joining. In view of several orders; the departmental regulation being regulation no.3027 dated 14.12.2015, followed by regulation no.1145 dated 11.07.2019 was issued, in which it was decided that the Grade-I is to be given from the date of joining itself.

He further submits that for granting promotion with retrospective effect; the School Education and Literacy Department Directorate of Primary Education, Government of Jharkhand has issued office memo no.619 (legal) dated 26.08.2021 which lays down the measures to be followed for granting promotions. A supplementary Affidavit was also filed to the aforesaid effect.

At this stage, it is pertinent to mention here that the

order referred to hereinabove clearly transpires that the effect to the appellate order dated 06.07.2011 was never given effect to. The averments made in the earlier counter affidavits it clearly transpires that since the petitioner has retired from service on 31.01.2014 and further since the petitioner never submitted any representation; her name was not included in the seniority list which was prepared in the year, 2016.

4. These lame excuses are not accepted by this Court and at this stage filing of supplementary counter affidavit and referring to the Circular of 2021 will not absolve the respondents to comply their own order passed on 06.07.2011.

5. In this view of the matter, the respondent No.5-District Superintendent of Education, Ranchi, is, hereby, directed to give effect to the direction of the Regional Deputy Director of Education, South Chotanagpur Division, Ranchi who was the appellate authority, whereby he has observed that the petitioner is entitled for grant of promotion for Grade-IV which has been given to the juniors. Thus, the order passed by The Regional Deputy Director of Education, South Chotanagpur Division, Ranchi vide its order dated 06.07.2011 must be complied before the next date of hearing.

6. Put up this case on **18.10.2021**.

7. Let a copy of this order be sent to the respondent No.2- The Secretary, Department of Human Resources Development, Government of Jharkhand, Ranchi to look into the matter and ensure proper compliance.

(Deepak Roshan, J.)

Pramanik/