2026:JHHC:13232

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 6404 of 2025

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Krishna Sharma, aged about 61 years, son of Late Janeshwar Sharma, resident of Kishorganj, Road No. 7, P.O. -G.P.O., P.S. Sukhdeonagar, District- Ranchi, Jharkhand **..... Petitioner**

Versus

1. The State of Jharkhand through the Director, Department of School Education and Literacy (Primary Education), Govt. of Jharkhand, having its office at Project Bhawan, P.O. & P.S. Dhurwa, District Ranchi, Jharkhand.
2. The District Superintendent of Education, Ranchi, at P.O. G.P.O., P.S. Kotwali, District Ranchi, Jharkhand.
3. The Accountant General (A & E), AGO Complex, P.O. & P.S. Doranda, District Ranchi, Jharkhand.

..... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

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For the Petitioner : Mr. Rahul Kumar, Advocate
For the Resp.-State : Mr. Ashok Kumar Yadav, Sr. S.C.-I
Mr. Ranjan Kumar, A.C. to Sr. S.C.-I
For Resp.-A.G : Dr. Ashok Kumar Singh, Advocate

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C.A.V. ON: 23/04/2026 **PRONOUNCED ON:29/04/2026**

1. Heard learned counsel for the parties.

2. The petitioner who has superannuated from the post of Headmaster, Government Middle School, Chatra, Angara, Ranchi w.e.f. 30.9.2024 has moved before this Court for payment of full and final pension, commutation of pension and the Gratuity amount along with interest.

3. Learned counsel for the petitioner submits that the petitioner had been appointed as an Assistant Teacher w.e.f. 9.9.1994 and had been allowed promotion to Grade-IV vide

order contained in Memo No. 624 dated 28.8.2021 retrospectively w.e.f. 1.4.2003 on account of order passed by this Court in *W.P.(S) No. 2691/2015, W.P.(S) No. 2042/2017, W.P.(S) No. 3090/2017* and the Award dated 11.9.2021 passed in National Lok Adalat. The promotion has been granted notionally; however, the financial benefits had been directed to be made from the date of joining.

4. Learned counsel for the petitioner further argued that since juniors to the petitioner had been granted promotion on Grade-IV, the authorities had taken a decision to grant retrospective promotion to the petitioner.

5. Learned Counsel for the petitioner further argued that in view of the large number of vacancies on the post of Headmaster in the District of Ranchi, this Court in writ petition being *W.P.(C) No. 638/2024*, vide its order dated 14.6.2024 has taken into account the submissions of the State authorities that the District Education Establishment Committee had decided to promote 39 eligible teachers to Grade-VII and had accordingly directed the State authorities to consider the cases of the petitioner for promotion to the post of Headmaster.

Since the name of the petitioner figured in the list of 39 such persons, the petitioner vide office order no. 1685 dated 8.7.2025 had been promoted on the post of Headmaster at

Government Middle School, Angara.

It has also been submitted that pursuant thereto the petitioner has submitted his joining on the post of Headmaster w.e.f. 09.07.2024 and had continued to discharge the duties of Headmaster and was also getting the pay scale.

6. The petitioner on attaining the age of superannuation has superannuated w.e.f. 30.9.2024 and there is a specific assertion in the writ petition that there had been no judicial proceeding or departmental proceeding pending against the petitioner and even there had been no evidence in the name of the petitioner.

After the superannuation the petitioner had been sanctioned provisional pension @ 90% and his Gratuity and commutation of pension has not been paid, whereafter the petitioner had represented before the respondent authorities and had ultimately moved before this Court.

7. It has also been asserted that the Office of the Accountant General, Jharkhand has also sought for information in relation to any disciplinary enquiry pending in terms of the notification of the Finance Department dated 23.07.2018.

8. A counter affidavit has been filed on behalf of the D.S.E, Ranchi primarily contending that the petitioner is being paid provisional pension but his claim for final pension, gratuity and commutation of pension cannot be processed at this stage

due to subsisting legal impediment arising from judicial order which directly affects the promotional position and consequential financial entitlement. It has also been submitted that the respondents are withholding the amount due to judicial constraint.

9. In the aforesaid facts and circumstances, the question that arises for consideration is that whether the respondents can withhold the pension and gratuity of the petitioner.

10. Admittedly, there is no departmental proceeding or judicial proceeding pending against the petitioner and the State authorities cannot recourse to Rule 43(b) or 43(c) of the Jharkhand Pension Rules to withhold the pension and gratuity on the pretext that the matter of retrospective grant of promotion of teachers is pending for consideration before the Hon'ble Apex Court.

11. The provisions of Rule 43(c) of the Jharkhand Pension Rules are being reproduced herein below: -

> *"43(c). Where any departmental or judicial proceeding is instituted or continued against an officer/employees who has retired on attaining the age of compulsory retirement or otherwise, he shall be sanctioned by the Government which instituted such proceeding, during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceeding final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service upto to the date of retirement, or if he was under suspension on the date*

of retirement, upto the date immediately preceding the date on which he was placed under suspension, but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and the issue of final orders thereon."

The aforesaid rules stipulate the condition of pendency of any departmental or judicial proceeding against a retired employee, which is not there as against the petitioner and hence, Rule-43 of the Pension Rules cannot be invoked as against the petitioner.

12. The law in relation to pension being a bounty depending upon the sweet will or grace of the employer has been held to be bad in view of the Constitutional Bench judgement of Hon'ble Supreme Court of India in the case of ***Deokinandan Prasad Vrs. State of Bihar,*** reported in ***(1971) 2 SCC 330***. The Hon'ble Apex Court in the case of ***State of Punjab & Anr. Vs. Iqbal Singh*** reported in ***(1976) 2 SCC 1***, has held that it is a hard-earned benefit which accrues to an employee and is in the nature of property, and it cannot be taken away without the due process of law. Similar view has also been expressed by the Hon'ble Apex Court in the case of ***D.S. Nakara & Ors. Vrs. Union of India,*** reported in ***1983 (1) SCC 305*** and in the case of ***State of Jharkhand Vs. Jitendra Kumar Srivastava***, reported in ***(2013) 12 SCC 210.***

13. In view of the settled law, the stand of the respondent

State authorities in the counter affidavit is not acceptable and the writ petition is fit to be allowed, and, is hereby, allowed.

14. It is also a case where undue delay in the disbursement of retiral dues by the employer has been made on a non-est ground and hence, this Court while taking into account the judgment of the Hon'ble Supreme Court of India in the case of ***State of Kerala & others Vs. M. Padmnabhan Nair [(1985) 1 SLR 750],*** in the case of ***S.K. Dua Vrs. State of Haryana***, ***[(2008) 3 SCC 44]*** and in the case of ***D.D. Tewari Vrs. Uttar Haryana Bijli Vitran Nigam Ltd.,*** reported in ***AIR 2014 SC 2861***, direct the respondents to release the monetary benefit with an interest of 6% per annum to be calculated from the date of retirement to the date of actual payment and the admitted retiral dues along with interest should be paid within a period of 12 weeks from the date of receipt of a copy of this order.

15. Accordingly, the instant writ application stands allowed. Pending I.A.s, if any, also stands closed.

(Deepak Roshan, J.)

Dated:29 /04/2026
Amardeep/
A.F.R

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05.05.2025