

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S).No. 1689 of 2018

1. Herman Lakra, son of late Peter Lakra, resident of Naugai, P.O. Putrungi, P.S. Dumri, Dist. Gumla.
2. Nicholas Kujur, son of late Paulus Kujur, resident of Kereng Tetartoli, P.O. Kereng via. Chainpur, P.S. Chainpur, Dist. Gumla.
3. Kaushal Kishor Singh, son of late Mahendra Prasad Singh, resident of Chainpur, P.O. & P.S. Chainpur, Dist. Gumla.

... ..**...Petitioners**

-Versus-

1. The State of Jharkhand.
2. The Director, Secondary Education, Govt. of Jharkhand, Ranchi.
3. The District Education Officer, Gumla.
4. The Secretary/ Headmaster, Balvir High School, Katkahi, P.O. & P.S. Chainpur, Dist. Gumla.
5. The Secretary/ Headmaster, Lutheran High School, Chainpur, Dist. Gumla.

... ..**....Respondents**

CORAM: THE HON'BLE MR. JUSTICE DR. S.N.PATHAK

For the Petitioners : Mr. M.M. Pan, Advocate

For the Respondents: AC to SC-II

02/ 30.04.2018 Heard learned counsel for the petitioners and learned counsel appearing for the respondent-State.

2. The petitioners have approached this Court with a prayer for a direction upon the respondents, particularly, respondent No. 3 to make payment of the leave encashment for unavailed leave earned during the service period of the petitioners with interest on payable amount, as the same has not yet been paid to the petitioners even after their retirement.
3. The facts of the case lies in a narrow compass. The petitioner Nos. 1 and 2 were appointed as Clerk and Assistant Teacher in Balvir High School, Katkahi, Gumla on 07.08.1982 and 01.08.1986 respectively and they retired from service on attaining the age of superannuation on 30.11.2017 and 31.07.2017 respectively. Similarly, the petitioner No. 3 was appointed as Assistant Teacher in Lutheran High School, Chainpur, Gumla on 01.07.1992 and retired from service

on 31.01.2018. It is the case of the petitioners that after their retirement they received all the retiral benefits except the amount of leave encashment. When the petitioners had not received the amount of leave encashment, they approached before the respondent-authorities by filing representations dated 10.03.2018 and 07.03.2018 respectively, but the respondents did not pay any heed to their said representations and hence, the petitioners have been constrained to knock the door of this Hon'ble Court by filing the instant writ application for redressal of their grievances.

4. At the very outset, it has been submitted by, Mr. M.M. Pan, learned counsel appearing for the petitioners that the issue involved in the present writ petition is no more res-integra and the same has been decided by the Hon'ble Division Bench of this Hon'ble Court in **W.P.(S). Nos. 506 of 2013 (Mariyam Tirkey Vs. State of Jharkhand & Ors.) and another case**, disposed of on **03.01.2014**, wherein, the Hon'ble Division Bench, taking into consideration the judgment passed by the Full Bench of this Hon'ble Court, reported in **(2007) 4 JCR 1** and the judgment passed by Hon'ble Apex Court, reported in **(2005) 10 SCC 346**, passed an order directing the respondents to pay the amount of leave encashment to the petitioners of that case, as petitioners therein were legally entitled for the same. Learned counsel accordingly submits that in view of aforesaid order passed by the Hon'ble Division Bench of this Court, which was affirmed upto Hon'ble Apex Court, the respondents are bound to make payment under the head of leave encashment to present petitioners and as such, a direction be given to the respondents to pay the amount of leave encashment within a reasonable period of time.
5. No counter-affidavit has been filed on behalf of the respondents. Learned counsel submits that in absence of any counter-affidavit, he is unable to say as to why the amount of leave encashment was not paid to the petitioners, though the issue has been settled upto the Hon'ble Apex Court. However, it has been very fairly submitted by learned counsel appearing for the respondents that issue involved in the present writ petition has already been decided and if the petitioners file fresh representations, the same shall be considered and a reasoned order shall be passed regarding payment of leave encashment to them in light of order passed in **W.P.(S). Nos. 506 of 2013 (Mariyam Tirkey Vs. State of Jharkhand & Ors.) and another case**.

6. Be that as it may, in view of the fair submissions of the learned counsel for the parties, this Court is of the view that the issue involved is no more res-integra as the same has been affirmed upto Hon'ble Apex Court. Accordingly, I hereby direct the respondent No. 3, the District Education Officer, Gumla to pay the amount of leave encashment to the petitioners, within a period of six weeks from the date of receipt of a copy of this order.
7. Resultantly, the writ petition stands allowed.

(Dr. S.N. Pathak, J.)

Kunal/-