

(2020) 01 JH CK 0048

In the Jharkhand High Court

Case No : Letter Patents Appeal No. 202 of 2016, I.A. No. 7267 of 2016

Anjarul Haque And Ors

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 27-01-2020

Acts Referred:

Citation : (2020) 01 JH CK 0048

Hon'ble Judges : H. C. Mishra, J;Deepak Roshan, J

Bench : Divison Bench

Advocate : Anil Kr. Sinha, Kanchan Kumari, Sanjay Piprawall

Final Decision : Dismissed

Judgement

1. Heard learned senior counsel for the appellants and learned counsel for the State, as well as learned counsel for the JPSC.

2. The appellants are aggrieved by the impugned Judgment dated 08.03.2016, passed by the Writ Court in W.P.(S) No. 4574 of 2005, whereby the writ application filed by the appellants writ petitioners challenging the termination of their service from the post of Teacher in Primary Schools, has been dismissed by the Writ Court.

3. The record shows that in the year 2002, the advertisement was issued pursuant to the Rules framed for appointment in the year 2002, for filling up to the posts of Primary Trained Teachers in the Primary Schools, and according to the qualification as mentioned in the advertisement, the candidates were required to qualify the following three conditions:-

(a) should be Citizen of India;

(b) should have passed Matriculation or equivalent examination;

(c) should have the certificate of two years' Teachers' Training / B.Ed. / Dip-in-ED / Dip-in-Teach / C.P.D.

4. The appellants were allowed to undergo the selection process, they were selected for the post of Teacher and they were appointed in the year 2004. Subsequently, a show cause notice was issued to them on 2nd April, 2005, by the District Superintendent of Education, Pakur, stating that they were not having the qualification of two years' Teachers' Training / B.Ed. / Dip-in-ED / Dip-in-Teach / C.P.D, and accordingly, to show cause as to why their services be not terminated. The appellants gave their reply to the show cause notice stating that they were having the Teachers' Training of one year which was equivalent to Teachers' Training of two years in case of working teachers. Considering this show cause to be not tenable, their services were terminated by the impugned order dated 30th June, 2005.

5. The appellants challenged their termination of service by filing writ application in this Court, which was adjudicated by the Hon'ble Single Judge, and the Hon'ble Single Judge found that since the writ petitioners were not having qualification as required in the advertisement, no relief could be granted to the petitioners and the writ petition was dismissed. Aggrieved thereby, the present appeal has been filed.

6. Learned senior counsel appearing for the appellants submits that the impugned Judgment passed by the Writ Court cannot be sustained in the eyes of law, inasmuch as, in case of working teachers, the qualification of one year Teachers' Training course is to be taken equivalent to two years Teachers' Training course, and in this connection learned senior counsel has placed reliance upon a communication of the State of Bihar, dated 24.10.1994. Based on this communication, learned senior counsel submitted that the appellants were having the required qualification and their services could not have been terminated.

7. Learned counsel for the State as also learned counsel for the J.P.S.C, on the other hand have opposed the prayer, submitting that the advertisement was issued pursuant to the appointment Rules framed by the State of Jharkhand in the year 2002, according to which the qualifications for the post of Primary School Teacher were prescribed. Since the appellants were admittedly not having either of the qualifications prescribed, i.e., either two years' Teachers' Training, or B.Ed., or Dip-in-ED., or Dip-in-Teach, or C.P.D., there is no illegality in the order terminating their service.

8. Having heard learned counsels for the parties, and upon going through the record, we find that only ground on which the writ application has been dismissed by the Writ Court is that the appellants were not having the required qualification as prescribed in the advertisement. Nothing has been brought to our notice that the appellants were having either of the qualifications mentioned above, which were also prescribed in the advertisement, published in accordance with the appointment Rules framed in the year 2002 by the State of Jharkhand. By no stretch of imagination it can be said that the appointment Rules of 2002 framed by the State of Jharkhand, shall be governed by notification issued by the

State of Bihar in the year 1994.

9. We do not find any merit in the submission of learned senior counsel for the appellants, that the appellants were possessing the required qualification. Since the appellants were not having the required qualification as per the advertisement, their appointment was absolutely illegal and cannot be sustained in the eyes of law. The services of the appellants have been terminated in accordance with law, and following the principles of natural justice.

10. As such, we do not find any illegality in the impugned Judgment dated 08.03.2016, passed by the Hon'ble Single Judge in W.P.(S) No. 4574 of 2005, worth any interference in exercise of the LPA jurisdiction.

11. There is no merit in this appeal and the same is, accordingly, dismissed. The pending I.A. also stands disposed of.