

(2003) 01 JH CK 0004
In the Jharkhand High Court
Case No : CWJC No. 2455 of 1999

Ashok Kumar Singh

APPELLANT

Vs

Bihar College Service Commissioner and Others

RESPONDENT

Date of Decision : 03-01-2003

Acts Referred:

Citation : (2003) 1 JCR 546

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : M.S. Anwar and Altaf Hussain, for the Appellant; Brij Bihari Sinha and Sheela Prasad, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—Heard the parties.

2. The writ petition was heard on merit on 3rd May, 2000 and the following order was passed :--

"In the High Court of Judicature at Patna

CWJC No.2455 of 1999

Ashok Kumar Singh v. Bihar College Service Commission and Ors.

3-3.5.2000 This application has been preferred by the petitioner for direction on the respondent-Bihar College Service Commission (Commission for short) to stop interview which has to start from 18th March, 1999 in pursuance of Advertisement No. 10/94 for appointment to the post of Lecturer (Chemistry) in Bokaro Mahila College, Bokaro Steel City.

From the pleading made by the petitioner, it appears that the petitioner was appointed in the year 1987. Said appointment was not made on the recommendation of the commission, but by way of ad hoc arrangement by the Managing Committee of the college.

No rule/statute framed by the respondents for regularization of temporary Lecturers appointed since 1st March, 1982.

In the circumstances, the petitioner cannot claim for regularization of service against a post he is working.

The post, in question, was advertised by the Commission in 1994, wherein the minimum qualification was laid down, including the minimum requisite marks obtained by a candidate in Post Graduate Examination (55%).

The petitioner neither challenged the advertisement nor raised any grievance relating to laying down of minimum qualifying marks, though the same is in accordance with law.

In the circumstances, no relief can be granted as prayed for.

The writ petition is, accordingly, dismissed.

Sd/- (S.J. Mukhopadhaya)"

3. Thereafter the petitioner preferred a petition for restoration of the writ petition (M.J.C. No. 3113/2000) before Patna High Court, though it was not maintainable. Further in view of the Bihar Re-organisation Act, 2000 and creation of the Jharkhand High Court there was no jurisdiction of the Patna High Court to pass any order in the present case after 15th November, 2000. Which is the reason that the case has now been transferred to Jharkhand High Court.

4. It appears that the aforesaid facts were not brought to the notice of learned Single Judge of the Patna High Court who passed the following order on 4th July, 2001 :--

"M.J.C. No. 3113 of 2000

Ashok Kumar Singh v. Bihar College Service Commission and Ors.

9/4.7.2001 Heard counsel for the parties.

It is said that due to non-marking of the cause list on 3.5.2000 the case was not attended and ex parte order was passed.

Sufficient cause has been shown to recall order dated 3.5.2000.

Considering the facts and circumstances of the case, order dated 3.5.2000 is recalled.

List this matter for admission.

Sd/- (Narayan Roy)"

5. In the circumstances. I find no reason to give a separate finding than the finding given on 3rd May, 2000 and dismiss this case for same reason.

6. This writ petition is, accordingly, dismissed.