
(2013) 07 JH CK 0023
In the Jharkhand High Court
Case No : WP (S) No. 7716 of 2012

Balgovind Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 08-07-2013

Acts Referred:

Citation : (2013) 3 JLJR 573

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Vijay Kr. Sharma, for the Appellant; Rakhi Rani for the State and Mr. Saurav Arun for the Respondent No. 3, for the Respondent

Judgement

S. Chandrashekhar, J.—The petitioner has approached this Court with the following prayers:-- (i) To quash/set aside vide memo No. SSA/PAL/ADPO/0301/157, dated 27.11.2012 issued by the District Superintendent of Education-cum-District Programming Officer, Sarva Shiksha Abhiyan, Palamau (respondent No. 6) whereby and whereunder the petitioner has been terminated by the respondent No. 6 on the ground of overage is not consider at the time of the selection and illegally selected and recommended by the concerned authority.

(ii) For direction to the respondent to immediate reinstate the appointment of the petitioner with consequential benefit including due salary since November, 2011 to till yet.

(iii) For direction to the respondents, during pendency of the present writ application pleased to stay Annexure-1 of this writ application.

(iv) For any other appropriate relief/reliefs for which the petitioner is found to be entitled to the facts and circumstances of this case.

The brief facts of the case are that, the petitioner was appointed as Para-Teacher on 3rd January, 2006. He disclosed his date of birth as 12th January, 1968 at the time of appointment. The said appointment was approved by the Block Education

Committee. Subsequently, a show-cause notice was issued to the petitioner on 3rd February, 2012 on the allegation that in view of letter No. 185 dated 16.10.2003, the petitioner was not eligible for appointment as, at the time of appointment, he was overage. The said letter dated 16.10.2003 prescribes the maximum age for selection as 40 years. The petitioner filed his show-cause reply on 9.2.2012 and after considering the representation of the petitioner, the impugned order dated 27.11.2012 has been passed in which after noticing his date of birth and the certificate which he produced at the time of hearing which discloses his date of birth as 12.1.1965 and taking into consideration the Resolution dated 4.8.2002 as well as the letter dated 16.10.2003, it was held that since the petitioner had crossed the maximum age limit for appointment, he should not have been appointed.

2. A counter affidavit has been filed on behalf of Respondent No. 6 and impugned order dated 27.11.2012 has been supported on the ground of letter dated 16.10.2003 and the Resolution dated 4.8.2002.

3. A rejoinder affidavit has been filed by the petitioner bringing on record a communication which he obtained through R.T.I. in which, it has been mentioned that in the Resolution dated 4.8.2002, there is no prescription for age limit and therefore, at the time when the petitioner was appointed, he was eligible for appointment on the post of Para-Teacher.

4. Heard learned counsel appearing for the parties and perused the documents on record.

5. Learned counsel for the petitioner relying on the Resolution dated 4.8.2002 and the communication dated 22.9.2012 which was obtained by the petitioner, through R.T.I., has submitted that in view of this communication, since there was no age limit prescribed in the Resolution dated 4.8.2002, it was not required for the petitioner to give any false affidavit with respect to his age and he has been validly appointed.

6. Learned counsel appearing for the State as well as respondent No. 3 has submitted that in the show-cause notice also, it has been specifically mentioned that in the light of letter dated 16.10.2003 of the State of Jharkhand, age limit for appointment on the post of Para-Teacher has been prescribed as 40 years and admittedly, the petitioner had crossed the age limit at the time of appointment and he has given false affidavit that his date of birth is 12th January, 1968.

7. On a perusal of documents on record, I find that it has been specifically mentioned in the impugned order that at the time of hearing, the petitioner produced his original matriculation certificate, in which his date of birth has been recorded as 12.1.1965 and this has not been disputed by the petitioner in the present writ proceeding. In view of the letter dated 16.10.2003, which has been brought on record by filing a counter affidavit, the maximum age limit prescribed for the appointment was 40 years, which admittedly the petitioner had crossed at the time when he was appointed on 3.1.2006. The communication received by

the petitioner through R.T.I. is of no help to the petitioner, as there is no mention of letter dated 16.10.2003 in the said communication, which prescribes the maximum age limit as 40 years. In view of the aforesaid facts and the specific stand taken by the respondents, the present writ petition is dismissed.