

(2016) 12 JH CK 0032
In the Jharkhand High Court
Case No : W.P.(S) No. 3054 of 2015

Dhananjay Modak

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 07-12-2016

Acts Referred:

Bihar Taken over Elementary School Teachers Promotion Rules, 1993 — Rule 3, Rule 4, Rule 7

Constitution of India, 1950 — Article 226

Citation : (2017) 1 JBCJ 410

Hon'ble Judges : Shree Chandrashekhar, J.

Bench : Single Bench

Advocate : Mr. Mahesh Kumar Sinha, Advocate, for the Petitioners; Ms. Ruchi Rampuria, JC to Senior S.C.I, for the Respondent State

Final Decision : Allowed

Judgement

Shree Chandrashekhar, J.—Prayer in the writ petition is for a direction to promote the petitioners from Grade-2 to Grade-3.

2. Heard.

3. The petitioners have claimed that a gradation list for promotion in Grade-3 was prepared and approved by the District Education Establishment Committee and necessary instructions were issued for promotion from Grade-2 to Grade-3, still, an exercise for promotion of the petitioners has yet not been undertaken.

4. Preparation of gradation list and promotion of the primary teachers are regulated under Bihar Taken Over Elementary School Teachers Promotion Rules, 1993. Promotion of the petitioners is also regulated under the Bihar Taken Over Elementary School 3 Teachers Promotion Rules, 1993, which is in operation in the State of Jharkhand. Rule 4 lays down conditions for promotion and Rule 5 provides for minimum educational and training qualifications as well as minimum tenure of service for promotion in different grades. Rule 7 of 1993 Rules provides

that a draft of seniority list for promotion shall be prepared by the end of the month of January of each year. The manner for preparation of draft seniority list for promotion has been laid down under Rule 7. In terms of Rule 8 interse seniority in the same grade is decided. The Secretary, School Education and Literacy Department, Government of Jharkhand-respondent no. 2 has filed affidavit dated 06.12.2016 in W.P.(S) No. 6135 of 2015 narrating the procedure for preparation of draft seniority list and the manner in which promotion is made. It was indicated that an exercise for preparation of draft seniority list and promotion would take three months" time. In the said case it has been ordered that mandate of 1993 Rules shall be followed in letter and spirit, in all the districts of the State of Jharkhand. In view of Rules 7, a fresh gradation list is required to be prepared and therefore, on the basis of the previous gradation list promotions cannot be granted. Accordingly, it is ordered that petitioners" claim for promotion from Grade-2 to Grade-3 shall be considered, if found eligible, against the existing vacancies and if their position in the gradation list takes them to the zone of consideration.

5. The writ petition stands allowed, to the aforesaid extent.