

(2009) 12 JH CK 0052
In the Jharkhand High Court
Case No : Writ Petition (S) No. 302 of 2007

Dinesh Kumar Mahto

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-12-2009

Acts Referred:

Citation : (2009) 12 JH CK 0052

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Advocate : Pradeep Kumar Deomani, for the Appellant; JC to SC-I and Sanjay Piperwall, for the Respondent

Judgement

D.G.R. Patnaik, J.—Heard learned Counsel for the parties.

2. The petitioner in this writ application, has prayed for issuance of a direction upon the respondents to forthwith issue a letter of appointment to the petitioner on the post of Primary Trained Teacher in the district of Bokaro, in the light of the fact that the petitioner had successfully competed in the Recruitment Examination, 2003 conducted by the JPSC.

3. Facts of the case in short is as follows: The JPSC had invited applications from eligible candidates for appointment to the post of Primary Teacher from persons who had completed two years teacher's training course of B.Ed or Diploma in Education or C.P.E.D or D.P.E.D. The last date of submission of the application form was 30th September 2002. The petitioner's contention is that he had though completed B.Ed course, but had not appeared at the final examination on the date when he had submitted his application in response to the advertisement. B.Ed examination was finally held in the year 2003 and the results were published in the year 2004. The petitioner had nevertheless, applied in response to the advertisement and an admit card was issued to him to enable him to appear at the written examination conducted by the JPSC. He appeared at the examination and thereafter in the results published, he was declared

successful. However, despite his being declared successful, he was refused the appointment letter on the ground that along with his application, he did not enclose the B.Ed certificate.

4. In the counter-affidavit of the respondents, the same stand has been taken to refute the petitioner's claim namely, that in the advertisement, it was stipulated that the candidates should enclose the B.Ed certificate to their applications and this having not been done by the petitioner, he is not entitled to raise his claim for appointment.

5. Counsel for the petitioner refers to the Full Bench Judgment of this Court in the case of Md. Sajjad Ali v. The State of Jharkhand and Ors. passed in W.P.(S) No. 4259 of 2003 and analogous cases and submits that in the aforesaid cases, identical issues were raised in as much as, though the candidates who had applied for and were declared successful in the written examination, were denied appointment only on the ground that they had not produced their B.Ed certificate.

Referring to Para-7 of the Full Bench Judgment, learned Counsel submits that the case of the candidates referred to therein, equally apply to the case of the petitioner in as much as, the petitioner had also appeared at the B.Ed examination held in the year 2003 of which results were published in the year 2004 and as such, he could not possibly submitted his B.Ed certificate along with his application form. Learned Counsel adds that the Full Bench having considered the various issues involved in the writ application, had allowed the writ application, declaring that the writ petitioners are eligible for being appointed as teachers and those candidates already selected for appointment in the examination held by the JPSC, are entitled to be treated at par with the other selected candidates. A direction was accordingly issued to the respondents to issue appointment letters to all such candidates if there is no other legal impediment.

6. Learned Counsel explains further that except the ground that the petitioner had not enclosed his B.Ed certificate to the original application, the respondents have not raised any other legal or other ground for refusing appointment to the petitioner.

7. Counsel for the respondent concedes that the ratio decided in the Full Bench Judgment of this Court covers the case of the petitioner, but adds that before considering issuance of a letter of appointment to him, the concerned authorities of the respondents would also have to consider as to whether such appointment does suffer from any legal impediment.

8. In the light of the above facts and circumstances, the concerned authorities of the respondents shall, within two months from the date of receipt / production of a copy of this order, take a final decision on the petitioner's claim for grant of appointment to the post of Primary Teacher against the existing vacancies and shall communicate such decision to the petitioner.

With these observations, this writ application is disposed of.

Let a copy of this order be given to the counsel for the respondent State.