

(2003) 02 JH CK 0075

In the Jharkhand High Court

Case No : Writ Petition (S) No's. 5545, 5546 and 6408 of 2002

Dr. Bimal Kumar Agarwal and Dr. Raja Ram Singh APPELLANT

Vs

Rajendra Institute of Medical Sciences and Others
 Dr. RESPONDENT
Aftabuddin Ahmad Vs State of Jharkhand and Others

Date of Decision : 13-02-2003

Acts Referred:

Bihar Service Code, 1952 — Rule 73

Rajendra Institute of Medical Sciences Rules, 2002 — Rule 14, 19

Citation : (2003) 2 JCR 50

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

Bench : Single Bench

Advocate : M.S. Anwar, A. Hussain and Rajendra Mishra, in W.P. S 5545 and 5546/2002, M.M. Banerjee, A. Sen and A.K. Das, in W.P. S No. 6408/2002, for the Appellant; I. Sen Choudhary, for the State and R. Krishna, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—The petitioners who were/are posted in Rajendra Medical College and Hospital (R.M.C.H.), the said Medical College was made Autonomous Institute and converted as Rajendra Institute of Medical Sciences (R.I.M.S.) pursuant to Rajendra institute of Medical Science Act, 2002 (Act 10 of 2002) w.e.f. 15th August, 2002. Thereafter, two of the petitioners, namely. Dr. Bimal Kumar Agarwal of W.P. (S) No. 5545 of 2002 and Dr. Raja Ram Singh of W.P. (S) No. 5546 of. 2002 were informed that they will superannuate on completion of 58 years of age w.e.f. 30th September, 2002, vide letter No. 429 and 428 respectively, both dated 28th September, 2002.

2. The age of superannuation of officers and employees of R.I.M.S. prescribed as 60 (sixty) years under Rule 14 of the Rajendra Institute of Medical Science Rules, 2002 (Rules 2002). The petitioners being posted in R.I.M.S., Ranchi, said two petitioners have challenged their respective letters of superannuation No. 429 and 428, both dated 28th September, 2002. The other petitioner, namely, Dr.

Aftabuddin Ahmad of W.P. (S) No. 6408 of 2002 has prayed to allow him to continue in the services upto 60 (sixty) years of age.

3. The question for determination is whether the State Government officers/employees, who were posted in R.M.C.H., Ranchi ceased to be officers/employees of R.I.M.S., Ranchi on and from the date of conversion of the Institute i.e, w.e.f. 15th August, 2002 or not.

4. For determination of the issue it is desirable to notice certain relevant provisions, such as Rule 14 (V) of Act, 2002 and Rule 19 of the Rules 2002, English translation of which is given hereunder :--

Rajendra Institute of Medical Sciences Act, 2002.-

Act 14 (V) of 2002.--"The Institute shall utilize the services of officers and employees of the Rajendra Medical College and Hospital including the Nursing College and Nursing School as their strength existed prior to the conversion of the Rajendra Medical College and hospital into the Rajendra Institute of Medical Sciences. These employees of the Institute shall be civil servants of the Government of Jharkhand unless they exercise this option to be absorbed in the Institute within such time period as provided in the rules."

Rajendra Institute of Medical Science Rules, 2002 :--

Rule 19 of the Rules.--The Government servants posted in the Institute at the time of the enforcement of the Act, shall be given one year's time from the . enforcement of the Act to exercise their option to be absorbed in the Institute. Those who do not exercise the option to be absorbed within the prescribed time limit shall be reverted to the Department of Health & Medical Education Government of Jharkhand for being posted by the State Government elsewhere in the State."

5. From the aforesaid provisions, it will be evident that an officer/employee continues to be the Government servant for a period of one year, till option for absorption given by the of officer/employee is finally determined in one or other way. The R.I.M.S. merely utilizes the services of such officers/employees of State who were in R.M.C.H., Ranchi till they are absorbed.

6. Admittedly, the options given by petitioners have not yet been finalized by the State nor any order of absorption in the services of R.I.M.S., Ranchi has been issued, they continue to be the employees of the State.

7. In this background, as a Government employee is to superannuate from service on completion of 58 years of age in terms of Rule 73 of the Bihar Service Code, 1952 no relief can be granted to the petitioners, as sought for.

8. All the writ petitions are, accord ingly, dismissed.