

(2003) 02 JH CK 0076
In the Jharkhand High Court
Case No : Writ Petition (S) No. 842 of 2002

Dr. Tulsi Mahto

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 13-02-2003

Acts Referred:

Citation : (2003) 2 JCR 52

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

Bench : Single Bench

Advocate : M.M. Banerjee and R. Krishna, for the Appellant; Suresh Kumar, JC to SC-II and Kalyan Roy, for the respondent No. 4, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—The petitioner has challenged the gradation list circulated vide letter No. 1/Health-1-41/ 2001, 42(1)/ Health dated 10th January, 2002, whereby and whereunder, the 4th respondent, Dr. Yogendra Nath has been shown senior to petitioner, Dr. Tulsi Mahto, as Associate Professor, Forensic Medicines.

Further prayer has been made to set aside the notification dated 19th April, 1988 whereby the 4th respondent was appointed as Assistant Professor, Forensic Medicines.

2. The claim of the petitioner for seniority over the 4th respondent is mainly dependent on the issue whether the appointment of the 4th respondent as Assistant Professor made on 19th April, 1988 was legal or not.

3. The main plea taken by the petitioner is that the 4th respondent had no three years teaching experience as a Tutor for appointment to the post of Assistant Professor as made in the year 1988.

4. The respondents have defended the appointment of the 4th respondent as Assistant Professor which was made in pursuance of an Advertisement dated

12th September, 1988.

5. It will be evident from the seniority list that both the petitioner and 4th respondent are Associate Professor of which seniority list has been published on 10th January, 2002. While challenging the seniority list of 2002, the petitioner has raised a question of legality and propriety of appointment of 4th respondent made against the next below post of Assistant Professor about 14 years back.

In almost a similar case before the Supreme Court in Roshan Lal and Others Vs. International Airport Authority of India and Others, the appellant while challenging the seniority list, raised the question of legality and propriety of appointment made about three years back. The Supreme Court held that there will be no justification in reopening the question of legality of appointment after several years in a case where the seniority is actually under challenge.

6. In this background, both the petitioner and the 4th respondent having promoted as Associate Professor, their seniority list of Associate Professor dated 10th January, 2002 being under challenge, I am not inclined to reopen the question of legality and propriety of the next below post of Assistant Professor after 14 (fourteen) years.

7. The 4th respondent having appointed as Assistant Professor and made Associate Professor much prior to the petitioner, if the said respondent has been shown senior to the petitioner as Associate Professor, it cannot be held to be illegal.

8. There being no merit, the writ petition is dismissed.