
(2011) 01 JH CK 0069
In the Jharkhand High Court
Case No : Writ Petition (S) No. 234 of 2011

Harihar Nath Roy

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 31-01-2011

Acts Referred:

Jharkhand State Universities Act, 2000 — Section 2, 67

Citation : (2011) 01 JH CK 0069

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Judgement

D.N. Patel, J.

1 Having heard learned Counsels for both sides and looking to the facts and circumstances of the case, Rule.

2 Learned Counsels for the Respondents waives notice of Rule on behalf of their respective Respondents.

3. Learned Counsel appearing for the Petitioner submitted that the Petitioner is working as Demonstrator with Respondent No. 5 since 1977. The Petitioner is a teacher within the meaning of Section 2(v) of Jharkhand State University Act, 2005. It has also been held by this Court in the case of S.P. Singh and Ors. v. The State of Jharkhand and Ors. reported in 2010(2) JCR 266 that the Demonstrator of the college is a teaching staff member and is a teacher within the meaning of aforesaid Sub-section (v) of Section 2 of the Act, 2005. The said decision is also annexed at Annexure-9 to the memo of petition. Thus, the Petitioner is a teacher and, therefore, as per Section 67 of the Act, 2005, age of retirement of the Petitioner is 62 years and, therefore, the Petitioner ought not to be compelled to retire or superannuate upon attaining the age of 60 years on 31st January, 2011. Thus, there is prima facie case in favour of the Petitioner. It is further contended by learned Counsel for the Petitioner that balance of convenience is also in favour of the Petitioner and if the Petitioner is to be

compelled to retire illegally on 31st January, 2011, in violation of Section 67 of the Act, 2005 and in violation of the aforesaid decision, it will cause an irreparable loss, which may not be compensated in terms of money and, therefore, stay may kindly be granted so that the Petitioner may be allowed to continue the services with Respondent No. 5 as Demonstrator even after 31st January, 2011, till this writ petition is decided or the Petitioner attains the age of 62 years, whichever is earlier.

4. Learned Counsels for the Respondents are seeking time to file their counter affidavits.

5. In view of the aforesaid submission and looking to the facts and circumstances of the case, it appears that, prima facie, the case is in favour of the Petitioner and also looking to the fact that the Petitioner is a Demonstrator as referred by definition given in Section 2(v) of the Act, 2005 to be read with Section 67 thereof, the Petitioner is a teacher and, therefore, he is entitled to continue in the services with Respondent No. 5 upto 62 years of his age and also looking to the decision rendered by this Court in the aforesaid reported case of S.P. Singh and Ors. v. The State of Jharkhand and Ors. reported in 2010(2) JCR 266 balance of convenience is also in favour of the Petitioner and irreparable loss will be caused to the Petitioner if stay, as prayed for, is not granted. I therefore direct the Respondents to allow the Petitioner to continue in the services as Demonstrator even after 31st January, 2011, during the pendency and final hearing of this writ petition or till the Petitioner attains the age of 62 years, whichever is earlier.

6. Rule is made returnable on 10th June, 2011.