
(2000) 01 PAT CK 0019
In the Patna High Court
Case No : C.W.J.C. No. 11431 of 1998

Hridya Nand Mishra

APPELLANT

Vs

State of Bihar and others

RESPONDENT

Date of Decision : 25-01-2000

Acts Referred:

Citation : (2000) 1 PLJR 1023

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

Bench : Single Bench

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—The case relates to appointment to the post of Assistant Teacher. Earlier persons having obtained less or marks having appointed, but no order of appointment having issued in favour of petitioner and some others, the petitioner and others moved in C.W.J.C. No. 155/95 for their appointment.

2. It was brought to the notice of the Court that one Jai Mangal Singh having lessor marks than the petitioner had been appointed. However, subsequently, the order of appointment of Jai Mangal Singh having cancelled, the writ petition was dismissed on 3rd July '95.

3. Against the decision of learned Single Judge, a number of L.P. As were preferred, including L.P.A. No. 1208/95.

4. Earlier one L.P.A. No. 772/95 having disposed of by order and judgment dated 10th May '96, the petitioner's L.P.A. No. 1208/95 was also disposed of on 16th January, 1997 with same and similar terms. Thereafter, the Director, Secondary, Primary & Adult Education issued Memo No. 1341 dated 2nd September, 1998 and rejected the claim of petitioner on the ground that the name of the other persons are appearing in 1983 panel, but that of the petitioner in the subsequent panel and made certain distinction.

5. On similar ground in respect of another co-petitioner, Ajit Kumar Singh, his

claim was rejected, vide order dated 14th August '97. Said Ajit Kumar Singh moved before this Court in C.W.J.C. No. 3925/98 against the said order, which was disposed of on 6th October, 1999.

6. The order was set aside and on the basis of admitted fact, the persons below the said petitioner, both out of 1983 and 1985 panel having appointed and that the vacancies do exist, the Court observed that the petitioner of the said case accrued vested right for being appointed as teacher.

7. Earlier when the case was taken up, the counsel for the petitioner relied on aforesaid decision dated 6th October '99, passed in C.W.J.C. No. 3925/98 and submitted that the case of the petitioner being same and similar, rejection order having quashed by this Court, the petitioner should be granted similar relief.

8. There is no separate affidavit filed by the State refuting the aforesaid claim made on behalf of the petitioner.

9. The petitioner has specifically pleaded that persons whose names were below him in the panel have been appointed. Names of such persons have been shown at paragraph No. 19 to the writ petition.

10. Earlier, when the petitioner moved in L.P.A. which was disposed of in terms with decision passed in L.P.A.No. 772/95, the question relating to delay in the matter of appointment was considered taking into consideration the Division Bench decision of this Court in the case of Ramji Tiwary and others, reported in 1996 (1) All P.L.R. 272. The case of petitioner and others was remanded, as all pending claims were to be decided, on the basis of specific orders passed by this Court or the Supreme Court, on merit.

11. In view of aforesaid findings given in the case of petitioner, the present writ petition cannot be rejected on the ground of delay, earlier this Court having entertained the writ application of petitioner.

12. In the circumstances, following the decision of this Court in the case of Ajit Kumar Singh (supra) (C.W.J.C. No. 3925/98-disposed of on 10th October '99), I also set aside the impugned order dated 2.9.1998 (Annexure-1) and direct the Respondents to place the matter before the Establishment Committee for appointment of petitioner as a teacher.

13. Appropriate order be issued in terms with decision of this Court within a period of three months from the date of receipt/production of a copy of this order. The writ petition is allowed with aforesaid observations and directions.