

(2015) 10 JH CK 0144
In the Jharkhand High Court
Case No : Writ Petition (S) No. 4219 Of 2011

Lakhpatt Yadav

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 30-10-2015

Acts Referred:

Citation : 2016 (1) JLJR 189

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Sanjay Kumar Pandey, Deepak Kr. Dubey

Final Decision : Disposed Of

Judgement

1. Heard counsel for the parties.

2. The Three Men Alam Committee appointed by the Government of Jharkhand in pursuance of the direction passed by the Hon'ble Supreme Court in Civil Appeal No. 6626-6681 of 2001 by judgment dated 03.01.2006, inquired into the matter for the purposes of recognition of the teaching/non-teaching employees of Project Girls High School, Jainagar, Koderma and submitted its report. The said school was selected on 23.05.1985 by a Three Men Committee earlier constituted by the Government of Bihar vide letter no. 142 dated 23.02.1985. The Three Men Alam Committee in its report submitted on 30.09.2007, found the sanctioned post of two units of Class-IV/Peon in the said school apart from other posts of teaching and clerical cadre. The Committee also found that the petitioner was appointed by the Managing Committee on 20.12.1983 and was 9th pass. However, the Committee did not recommend recognition of the services of the petitioner and one another person working as peon since 1983 on the ground that two persons Bahadur Paswan and Ashok Ram were appointed on compassionate ground by the District Compassionate Appointment Committee and posted by order of the District Education Officer in the instant Project Girls High School in the year 2002 and 2005 respectively. It, therefore, recommended

recognition of the services of those two persons on Class-IV post of Peon, though there was no occasion to recommend recognition of their services as they had already been appointed by the District Compassionate Appointment Committee in the respective years.

3. Petitioner being aggrieved, has approached this Court seeking recognition of this services from the date of selection of the school as Project School in terms of the decision of the Three Men Committee dated 23.05.1985. Petitioner has consequently sought for payment of salary with effect from 01.01.1989 with other consequential benefits in view of Full Bench Judgment rendered by the Patna High Court in the case of Project Uchcha Vidyalaya Shikshak Sangh v. State and analogous cases, reported in 2001 (1) PLJR 287 as also judgment passed by the Apex Court in the aforesaid Civil Appeal.

4. Learned counsel for the petitioner submits that the Three Men Committee was under a mandate to inquire from the respective Project Schools about the selection of the school and the appointment of the teaching/non-teaching employees prior to the selection of the school by the Managing Committee as also the fulfillment of necessary eligibility criteria of those appointed teaching/non-teaching employees for the purposes of recognition of their services. If Three Men Committee found the petitioner working since his appointment by the Managing Committee in December 1983 before the selection of the school itself, and having the educational qualification of 9th pass, above the minimum required at the relevant point of time, there was no reason why the Committee refused to recommend recognition of his services on a pretext that two other peons had later on been appointed and posted in the Project School on compassionate grounds in the year 2002 and 2005 respectively. He has, therefore, sought for consideration of his case for recognition of his services as otherwise, it would be wholly arbitrary and result ing injustice to the petitioner.

5. Through I.A. No. 1427/2013, petitioner has relied upon the Notification bearing no. 424 dated 9.2.11 (Annexure-8) in support of his submissions that several such teaching as well as non-teaching employees, who were found to have been selected by the Managing Committee prior to the selection of the Project School and were having required eligibility criteria, have been recognized in services on the sanctioned posts available against those Project Schools.

6. Respondents in their counter affidavit have also referred to the reasons contained in Three Men Committee's Report, extract of which are enclosed as Annexure-B and also form Annexure-7 to the writ petition to support their decision. According to the respondents, the Three Men Committee clearly indicated in its report that there are two sanctioned posts of peons in the School and both are filled up with the peons appointed by the State Government. Therefore, services of the petitioner should not be recognized. This in sum and substance is the stand of the respondents to oppose the prayer of the petitioner.

7. Having considered the relevant material facts pleaded and submissions of the

parties, it is evident that despite the fact that the petitioner was found to be appointed by the Managing Committee of the school on 20.12.1983 and was having the educational qualification of 9th Pass and that there were two sanctioned posts of Class-IV employees i.e. of peons in the school in view of the State Government decision contained in letter no. 705 dated 12.10.1982, which is also reflected in the Three Men Alam Committee Report, petitioner has been refused recognition only on the ground that two other persons, who were appointed on compassionate ground by the District Compassionate Appointment Committee, have been posted in the school in the year 2002 and 2005 as peons. The posting of two persons on the post of Peon in the year 2002 and 2005 in the school in question pursuant to their appointment by the District Compassionate Appointment Committee, should not take away the right of consideration and recognition of the services of a person like the petitioner who was found to be serving in the school since December 1983 i.e. prior to the selection of the school in May 1985.

8. The matter, therefore, requires due consideration and application of mind by the Respondent No. 2 - Director (Secondary Education), Human Resources Development Department, taking into account the relevant attendant material facts. Needless to say that the persons, who have been appointed and posted in the school as peons, may not have required any recognition of their services in school in question as their appointment was by a competent authority on the basis of the decision of the District Compassionate Appointment Committee obviously in lieu of the death of the employee/bread earner. In such circumstances, mere posting of these two persons should not come into the way of independent consideration of the claim of the petitioner for recognition of his services in the school in question on the basis of the aforesaid facts.

9. Accordingly, it is felt appropriate that due consideration be accorded to the claim of the petitioner in accordance with law and taking into account relevant material attendant facts and observation made hereinabove by the Respondent No. 2 - Director (Secondary Education), Human Resources Development Department, within a reasonable time, preferably within twelve weeks from the receipt of a copy of this order. It is made clear that the findings of the Three Men Alam Committee would not come into the way of the Respondent No. 2 in taking a fresh decision in the matter in accordance with law.

10. The writ petition is disposed of with the aforesaid observations and directions.