

(2010) 02 JH CK 0063
In the Jharkhand High Court

Lambodar Pandit

APPELLANT

Vs

State of Jharkhand, Director, Primary Education, District
Superintendent of Education and Head Master, Middle School,
Madhuri

RESPONDENT

Date of Decision : 24-02-2010

Acts Referred:

Citation : (2010) 02 JH CK 0063

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Heard the parties.

2. The petitioner has challenged the order dated 31/01/2002, contained in Annexure-12 to the writ petition, whereby the Director, Primary Education, Jharkhand, rejected the representation filed by the petitioner for his reinstatement in service pursuant to the order dated 20/12/1999, passed in C.W.J.C. No. 3258 of 1998.

3. The case of the petitioner is that for appointment to the post of untrained Science Teacher in the District of Sahibganj, an advertisement was published, against which the petitioner applied for the said post. He was called upon to appear in interview by issue of Annexure-1 by the District Superintendent of Education, Santhal Pargana. The petitioner faced the interview and thereafter, an office order dated 18/04/1983 was issued appointing him as untrained Science Teacher in the Middle School at Porraiyahat. The petitioner joined the said school on 09/07/1983 and he was discharging his duty peacefully.

4. All of a sudden on 26/07/1991 an office order contained in Annexure-3, was issued under the signature of District Superintendent of Education, Godda, by which 30 teachers including the petitioner were terminated from service from the date of issue of such letter on the ground that their services were no more

required.

5. The petitioner and similarly situated teachers challenged the said order of termination before Patna High Court in CWJC No. 5720 of 1991. The said writ petition was taken up with three other similar writ petitions and all the four writ petitions were disposed of by an order dated 03/03/1993 by observing that the four writ petitions would be governed by the decision passed in CWJC No. 7000/1992 and other analogous cases (Janardan Prasad Roy v. State of Bihar and Ors., disposed of on 20th January 1993). The order passed in CWJC No. 5720 of 1991 and other analogous cases has been annexed as Annexure-4 to this writ petition, whereas the order passed in CWJC No. 7000 of 1992 with analogous cases has been annexed as Annexure-13 to the supplementary affidavit.

6. From the order dated 03/03/1993, contained in Annexure-4, it appears that the Division Bench directed that the case of the petitioner would be governed by the decision in CWJC No. 7000 of 1992.

7. The grievance of the petitioner is that almost all other teachers, who were terminated alongwith the petitioner, have been reinstated but he has not been reinstated. In support of the above fact he has annexed some orders to the supplementary affidavit as Annexure-14 and 14/1 showing reinstatement of other similarly situated persons.

8. The petitioner further states that his representation alongwith others was rejected vide Annexure-5, which he challenged before Patna High Court in CWJC No. 3258 of 1998. The said writ petition was disposed of by order dated 20/12/1999 (Annexure-9) by observing that, the case of the petitioner was covered by the order passed in CWJC No. 7011 of 1995 and it was directed that the Director, Primary Education shall consider the representation of the petitioner for reinstatement in the similar manner in which it was done to the petitioner of CWJC No. 8366 of 1992 and other analogous cases and such decision should be taken within three months from the date of the receipt of a copy of the order. The judgment in CWJC No. 8366 of 1992 has been annexed as Annexure-10 to this writ petition.

9. The petitioner states that pursuant to the aforesaid order dated 20/12/1999, he again filed a representation and when the representation was not being disposed of, he filed a petition for initiating a proceeding for contempt being MJC No. 457 of 2001. After the notices were issued in the contempt petition, the respondent No. 3 hurriedly rejected the representation of the petitioner on 31/01/2002 on a totally new ground, which was never raised by the respondents at any point of time. However, the proceeding for contempt was dropped by giving liberty to the petitioner to challenge the order of rejection of his representation before the appropriate forum and, accordingly, the petitioner has filed the present, writ application challenging the order dated 31/01/2002, contained in Annexure-12 to this writ application.

10. Mr. Saurav Arun, learned Counsel appearing for the petitioner submitted that at one hand in spite of the order of the High Court the petitioner has not been reinstated in service and the petitioner has been singled out, whereas other exactly similarly teachers, whose services were also terminated alongwith the petitioner have been reinstated in service and in this manner the petitioner is being treated differently.

11. A counter affidavit has been filed on behalf of the respondents controverting the claim of the petitioner. The respondents have stated in detail the reasons; for rejection of the representation of the petitioner.

12. From the impugned order dated 31.01.2002 contained in Annexure-12 to the writ petition, it appears that the Director, Primary Education, after considering the orders dated 20/12/1999 passed in CWJC No. 3258 of 1998 (Lambodar Pandit v. State) as well as the order passed on 25/12/1993 in CWJC No. 3866 of 1992, examined the claim of the petitioner for reinstatement and in that regard made certain queries from the petitioner in presence of his counsel about the genuineness of his claim that he was appointed as untrained science teacher after interview said to be held in the year 1981 and, thereafter, on critical scrutiny of the relevant papers, found that there were certain serious discrepancies, in the claim of the petitioner and there was no mention in his alleged appointment letter dated 18/04/1983 about the recommendation made by the District Establishment committee and, accordingly the Director, on consideration of facts stated in the order found that the claim for reinstatement of the petitioner in service was not genuine and, accordingly, he rejected the representation of the petitioner for reinstatement and for payment of salary.

13. From perusal of the order dated 20/12/1999 passed in CWJC No. 3258/1998 and the order dated 25/02/1993 passed in CWJC No. 3866/1992, which have already been quoted in the impugned order, I find that the High Court gave liberty to the respondents that if the petitioner's appointment is found to be otherwise illegal (sic) it is found that the petitioner does not fulfill the conditions of appointment, the State will be entitled to take appropriate action in this regard. It is pursuant to the said order and direction of the High Court, the Director, Primary Education, made thorough enquiry about the claim of the petitioner and then he found that the appointment of the petitioner was not valid and accordingly, rejected the claim of the petitioner for reinstatement.

14. This Court, sitting in writ Jurisdiction cannot substitute its own finding on facts after reappraisal of evidence. The petitioner was given sufficient opportunity by the Director, Primary Education during enquiry to place his case and, thereafter the impugned order was passed.

15. Thus from the facts and circumstances stated above, it is clear that the Director, Primary Education, by his impugned order contained in Annexure-12, on consideration of the relevant materials placed before him and pursuant to the order and direction of the High Court, considered the claim of the petitioner and

then on making enquiry has rejected the representation of the petitioner for his reinstatement in service. The said impugned order, in my view, does not suffer from any infirmity.

16. Accordingly, for the reasons stated herein above, I do not find any merit in this writ application. Accordingly, the same is hereby rejected.

However, in the facts and circumstances of the case, there shall be no order as to cost.