

(2013) 09 JH CK 0064
In the Jharkhand High Court
Case No : W. P. (S) No. 2512 of 2012

Md. Azhar Hussain

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 12-09-2013

Acts Referred:

Citation : (2013) 09 JH CK 0064

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Manoj Tandon, for the Appellant;

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. The grievance of the petitioner is that though he has secured 220 marks in the Backward Class category under the Advertisement no. 74 of 2011 issued by the Respondents, Jharkhand Academic Council for appointment of Post Graduate Teacher (PGT) in +2 School and the marks is equal to the person whose name has been recommended, but the petitioner's case has not been recommended by the respondents for appointment to the post of Post Graduate Teacher (PGT).

2. It is the contention of the petitioner that the advertisement did not contain any such stipulation, but the respondents have recommended the name of other candidate, who has secured the same 220 marks on the ground that he is senior in age to the petitioner. In absence of any such Rule, the action of the respondents is arbitrary and the petitioner should also have been recommended, having secured the same marks.

3. On the other hand, it is the contention of the respondents that out of seven vacancies in the Backward Class category, the recommended candidate had secured 220 marks and the petitioner also had secured the same marks. In such circumstances, there being no specified criteria laid down in the Government circular or under the respondent, Jharkhand Academic Council, the name of other

candidate, who is senior in age to the petitioner has been recommended. The date of birth of the recommended candidate is 10.10.1974 while that of the petitioner is 31st December, 1979. In such circumstances, no arbitrariness or discrimination can be alleged by the petitioner.

4. I have heard learned counsel for the parties and gone through the materials on record. It is not in dispute that the petitioner as well as the last recommended candidate both had secured 220 marks in the Backward Class category where seven vacancies existed. However, it is also true that there are no rules specifying the yardstick under which in case of same marks being secured by more than one candidate, how the name of such similarly placed candidate is to be recommended. In the absence of any Rule laying down any yardstick based upon any further criteria, earmarked such as educational qualification etc. or marks of interview etc, the person, senior in age is to be recommended as such a basis is not fortuitous and is otherwise just and reasonable (See D.P. Das Vs. Union of India (UOI) and Others, . The respondents appeared to have followed the said principles and accordingly it cannot be alleged that there are any arbitrariness or discrimination in the said exercise. Therefore, no grounds for interference are made out in the impugned order. Accordingly, the writ petition is dismissed.