

(2003) 01 JH CK 0071
In the Jharkhand High Court
Case No : CWJC No. 2661 of 2000

N. Anjali

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 06-01-2003

Acts Referred:

Citation : (2003) 1 JCR 608

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

Bench : Single Bench

Advocate : R. Krishna and P. Vidyarathi, for the Appellant; Banani Verma and P. Modi, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—The petitioner was appointed as Assistant Teacher in the matric trained scale of pay in Andhra Association Middle School, Jamshedpur, Her service having terminated by order dated 28th March, 2000 (vide Annexure-7), the present writ petition has been preferred.

2. The case of petitioner is that she was appointed after due advertisement, selection and following the procedure. The respondent Managing Committee issued termination order without application of mind but because of a direction given by the D.S.E. Jamshedpur.

3. The respondents in their affidavit have taken plea that the petitioner was not a trained teacher. She produced a B.Ed. certificate of an unrecognized College/University.

4. Counsel for the petitioner submitted that there was no stipulation made in the advertisement that only those who have obtained B.Ed certificate from recognized College/University can apply. In absence of such stipulation, the respondents cannot terminate the service of the petitioner on the ground that B.Ed certificate produced by her been obtained from an unrecognized College/University.

5. From the advertisement, it will be evident that the School intended to fill up the matric trained scale post of Assistant Teacher. As per the rule framed under proviso to Article 309 of the Constitution of India issued vide notification dated 8th July, 1993, only a trained teacher is eligible for appointment against matric trained scale.

6. Admittedly, the State Government releases fund for payment to the teachers of the School. For the said reason, the approval of appointment of a teacher in a Govt. aided School is mandatory.

7. In the circumstances, the petitioner being not trained teacher, if the respondents refused to approve her service and asked the school to terminate. I find no her service, ground to interfere and the order of termination. Further, service of petitioner having not approved by the State/competent authority, the respondents cannot be asked to pay salary.

8. There being no merit, the writ petition is dismissed.