
(2008) 09 JH CK 0027
In the Jharkhand High Court

Niranjan Behra

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-09-2008

Acts Referred:

Citation : (2008) 09 JH CK 0027

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.G.R. Patnaik, J.—Prayer in this writ application has been made for issuance of an appropriate writ/direction upon the Respondents to consider the case of the petitioner for his absorption as Assistant Teacher in the Primary School on the pattern of the policy decision of the State of Bihar and the State of Chhatisgarh, where similarly situated "Siksha Mitras", like the petitioner have been absorbed in the cadre of Assistant Teacher.

2. The case of the petitioner is that pursuant to a Resolution adopted by the State of Jharkhand in its Department of Human Resources Development for appointment of Teachers (Siksha Mitra) in the Primary Schools, the petitioner was selected as a Teacher (Siksha Mitra) for the Primary School at village-Tunia in the district of West Singhbhum and has been working as such, since the date of his selection and appointment on 09.09.2002, on a remuneration of Rs. 2000/- per month. By virtue of his duties,) the petitioner has been discharging his service similar to that of a regular Assistant Teacher.

3. Since, after the reorganization of the State of Bihar and Jharkhand, the State of Bihar has published a Notification through its Department of Human Resources Development by way of Bihar Panchayat Primary Teachers (Employment and Conditions of Service). Rules, 2006, whereby all Siksha Mitras in the State have become Panchayat Teachers and are being paid a remuneration of Rs. 4000/- per month, if untrained and Rs. 5,000/- per month if trained. A similar Notification

has also been issued by the newly created State of Chhatisgarh.

The grievance of the petitioner is that since, such primary Schools have been established in every State for implementation of the Constitutional Scheme, which mandates that Primary Education to the Children of 6 to 14 years of age being their fundamental right, it has to be provided by every State and the teachers appointed to such Schools should be guided by uniform Service conditions. The contention of the petitioner is that since the service rendered by him, is the same as Siksha Mitras in other States, namely, Bihar and Chhatisgarh, who have the privilege of being absorbed as Assistant Teachers in the Primary Schools and also the benefit of a higher remuneration, the Siksha Mitras in the State of Jharkhand should also be given the same benefit and the State of Jharkhand should also adopt a similar resolution as adopted by the State of Bihar and the State of Chhatisgarh. The jist of the petitioner's submission is that in the matter of absorption of Para-Teachers as regular Teachers, the State of Jharkhand should be directed to follow the same polices as adopted by the State of Bihar and the State of Chhatisgarh.

4. Counter affidavit has been filed by the Respondents, wherein, it has been explained that the post of Para Teacher, which the petitioner holds, is a contractual post. The period of contract is extended only according to the performance of the Para Teacher. The selection of Para Teachers is made at the level of the Village Level Education Committee as per the required minimum educational qualifications.

As per the Rules of the State Government for recruitment and appointment of regular Teachers in Primary Education, the same is made on the basis of recommendations of the Jharkhand Public Service Commission for which the minimum qualification includes Training and Education from any N.C.T.E. recognized Training College. The State Service Commission has constituted the State Level Committees for selection of the candidates. Thus, the appointment of Para Teachers and regular Teachers are by separate distinct modes. The Para Teacher whose appointment is basically on contract basis and temporary in nature, cannot claim his direct absorption in the regular cadre of Primary Teachers, unless his candidature is recommended by the State Public Service Commission. The appointment of regular Teachers is made only against posts duly created and sanctioned by the Government; whereas, the engagement of the Para Teachers is made on the requirement of Teachers due to existence and enrollment of the new students. It is further stated that the honorarium paid to Para Teachers in the State of Jharkhand ranges in between Rs. 2,500/- to 3,500/- per month depending upon their qualification. It is further stated that the State of Jharkhand has its own policy and guidelines in respect of the Primary Education as per the directions of the Government of India and as per the requirement and the re-sources of the State and it cannot be directed to be guided by the State of Bihar or any other State.

5. There is no dispute regarding the fact that under the Constitutional mandate,

right to education for children between the ages of 6 to 14 years, is a fundamental right and it is the duty of every State to provide Primary education to such children. In consonance with the Constitutional mandate, the Central Government has issued instructions to every State to frame its own policies to establish Primary Schools in every village enabling primary education to each and every child between the age of 6 to 14 years. Since the subject falls within item 17 of the 11th Schedule of the Constitution of India, the State Government has the exclusive jurisdiction to frame its own Policies and Rules relating to Primary and Secondary Education in Rural areas and where such Schools are to be established in Rural areas, such responsibility is vested with the village Panchayats.

6. The State of Jharkhand has also adopted its own Policies and framed Rules for selection and postings of Para Teachers at the village level which is a subject within its exclusive domain. The framing of the Rules depending upon its own requirement and resources, the powers of the State Government does not allow any interference and, therefore, no direction can be given to the State Government to emulate and adopt the policies of any other State. The mere fact that Para Teachers in the State of; Bihar and the State of Chhatisgarh are paid a higher amount of remuneration, in itself, does not create any right to the petitioner to claim and demand remuneration equal to the teachers in other States.

7. The petitioner being a Para Teacher under contractual employment on temporary basis, cannot claim direct absorption as a regular Teacher contrary to the Rules of the State Government, which prescribes the procedure for recruitment of regular Teachers.

8. In the light of the above discussions, I do not find any merit in this application. Accordingly, this writ application is dismissed.