

(2012) 09 JH CK 0157
In the Jharkhand High Court
Case No : C.W.J.C. No. 764 of 2000 (R)

Nirbhay Kumar Jha

APPELLANT

Vs

The State of Bihar, The Director, Secondary Education, Patna,
Regional Deputy Director of Education, Ranchi and District
Education Officer, Ranchi

RESPONDENT

Date of Decision : 20-09-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 09 JH CK 0157

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Vijoy Pratap Singh, M/s. Ashok Kr. Sinha and Amrita Kumari, for the Appellant; Sweta Singh, J.C. to G.P.-V, for the Respondent

Final Decision : Allowed

Judgement

Alok Singh

1. Managing Committee of Thakur Vishwa Nath Shahdeo High School, Jagannathpur, Dhurwa (Ranchi), in a meeting held on 25th December, 1969, had resolved to appoint the petitioner as the Headmaster of the School. Petitioner was consequently appointed as founder Headmaster of the School. Petitioner was M.A. (Economics) at the time of his initial appointment. Thereafter, he acquired degree of B.Ed. too, on 5th February, 1976. Petitioner had been occupying the post of Headmaster of the School from 25.12.1969 till 02.10.1980, when the School was taken over by the Government. Petitioner has earlier filed a writ petition being C.W.J.C. No. 3653 of 1998(R), seeking direction to treat the petitioner as founder Headmaster of the Thakur Vishwa Nath Shahdeo High School, Jagannathpur, Dhurwa, Ranchi. The writ petition was disposed of vide order dated 08.02.1999, directing the authorities to take decision on the representation of the petitioner, seeking regularization, as founder Headmaster of the School. Pursuant to the decision dated 08.02.1999, petitioner had moved

a representation, which was dismissed vide impugned order dated 11th February, 2000 by the Director, Secondary Education, Bihar (Annexure 11 to the writ petition). Feeling aggrieved, the petitioner has approached this Court by invoking Article 226 of the Constitution of India.

2. Perusal of the impugned order (Annexure 11) reveals that the claim of the petitioner, seeking regularization on the post of founder Headmaster of the School, was rejected, on the ground that the petitioner was not having 7 years" teaching experience on 02.10.1980, when the School was taken over by the Government.

3. Mrs. Sweta Singh, J.C. to G.P.-V, while reading the counter affidavit, has argued that since the petitioner was discharging the duties of In-Charge Headmaster of the School, therefore, he cannot be recognized as founder Headmaster of the School. However, she has fairly submitted that since the petitioner was appointed in the year 1969 and had been working in the School, without any break, till 02.10.1980, therefore, he should be deemed having continuous experience of teaching for about 11 years.

4. The requirement of the Government Order Memo No. 511 dated 20.11.1981 read with Memo No. 1072 dated 09.11.1987, for the appointment of the founder Headmaster of the School is 7 years" teaching experience continuously before 02.10.1980.

5. Having perused the Memo Nos. 511 and 1072 carefully, there seems to be no such requirement that incumbent should be working as regular Headmaster of the Institution for more than 7 years, on the date, the School was taken over by the Government, to consider the petitioner for the permanent appointment on the post of founder Headmaster of the School. The only requirement seems to be 7 years" continuous teaching experience, which the petitioner admittedly had, on 02.10.1980, when the School was taken over by the Government. Consequently, the order impugned does not sustain in the eyes of law.

6. Mr. V.P. Singh, learned Senior Advocate appearing for the petitioner has submitted that since the petitioner has stood retired in the month of October, 2005 on attaining the age of superannuation, therefore, all the monetary benefits, which the petitioner would otherwise have acquired, should be directed to be paid to him, along with the directions of the re-fixation of the pension and to make the payment of arrears to him, within such time, as fixed by this Court. In view of the discussions made hereinabove, the present writ petition is allowed. Impugned order (Annexure 11) is quashed. Respondents are directed to treat the petitioner as founder Headmaster of the School namely Thakur Vishwa Nath Shahdeo High School, Jagannathpur, Dhurwa, Ranchi. Respondents are further directed to re-fix the pension of the petitioner within ninety days from today and to make payment of all the arrears, found due, to him within ninety days thereafter, failing which the petitioner shall also be paid interest at the rate of 10% per annum from today, till the actual payment is made to him.