
(2009) 05 JH CK 0034
In the Jharkhand High Court

Paulina Hemrom

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 21-05-2009

Acts Referred:

Citation : (2009) 05 JH CK 0034

Hon'ble Judges : D.N. Patel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.N. Patel, J.—Present writ petition has been preferred mainly for the reason that Respondent-school and the Interviewing Committee has not selected the present petitioner as an Assistant Teacher in R.C. Balak Prathmik Vidyalaya, Torpa, Distt: Khunti, State of Jharkhand. It has been submitted by the learned Counsel for the petitioner that petitioner is serving as teacher in the very same school since last one decade and, therefore, she ought to have been selected by the Interviewing Committee. The petitioner has also submitted that she is the best and suitable candidate for the appointment in comparison with the rest of the candidates whose interviews were taken by the Interviewing Committee and, therefore, the selection of the candidates i.e. Respondent Nos. 7 & 8 deserve to be quashed and set aside and the petitioner may be appointed on the said post by issuance of a writ of mandamus.

2. I have heard learned Counsel appearing for the Respondent No. 2, who has vehemently submitted that petitioner, after participating in interview and after taking a calculative risk, merely because she is not selected, several allegations have been levelled against the Interviewing Committee by the petitioner. It is also submitted by the learned Counsel for the respondent-State that the petitioner is alleging that she is the best amongst the whole lot, but, it is a bare assertion and that no comparative chart of educational qualification or experience is reflected in the memo of petition by the candidates who are not selected. All the candidates think that they are the best candidates and the

petitioner is no exception to this rule. Learned Counsel for the respondent-State has relied upon a decision of Hon"ble Supreme Court in Madan Lal and Others Vs. State of Jammu and Kashmir and Others, especially in Paras No. 9 & 10 thereof and submitted that petitioner is not selected by the Interviewing Committee and after participation in the interview, by taking calculated chance no such petition can be filed and no relief can be granted by this Court to such petitioner.

3. I have heard learned Counsels for both the sides and looking to the facts & circumstances of the case I see no reason to entertain this writ petition for the following facts & reasons:

I. It appears that from the facts of the case, that the petitioner has applied in pursuance of the Advertisement for the appointment to a post as an Assistant Teacher in R. C. Balak Prathmik Vidyalaya, Torpa, Distt: Khunti, State of Jharkhand. Interview Committee, consisting of six Members, has taken Interview of several candidates. Constitution of the Interview Committee is as under as per Memo of Petition:

(A) Father Fr. Luis Topno, Secretary of Catholic School, Torpa, Distt: Khunti.

(B) Block Education Officer, Torpa, District : Khunti.

(C) Head Master, R. C. Balak Prathmik Vidyalaya, Torpa, Distt: Khunti.

(D) Head Master, St. Joseph High School, Torpa, Distt: Khunti

(E) Mr. Budhu Mahto, Assistant Teacher, P.C. Balak Prathmik Vidyalaya, Torpa. Distt: Khunti.

(F) Mr. Ethel Kerketta, Assistant Teacher, R.C. Balak Prathmik Vidyalaya, Torpa, Distt.-Khunti.

Thus, the whole Committee has taken Interview of several candidates and the petitioner was one of them who has participated in the Interview.

II. It appears that thereafter, the petitioner was not selected and Respondent Nos. 7 & 8 were selected as Assistant Teacher and, therefore, the present petition has been preferred. The petitioner has alleged that petitioner is the best candidate amongst all candidates whose interview was taken and, therefore, she must be selected. This bare assertion is of no help to the present petitioner. The Interviewing Committee has taken Interview in which they have found Respondent Nos. 7 & 8 to be suitable for appointment. This Court cannot reassess relative merits of all the candidates nor this Court cannot sit in appeal upon decision by the Selection Committee nor this Court can replace a subjective satisfaction arrived at by the Committee. The decision of Committee cannot be replaced by this Court, but, if selection method is found illegal then Court can interfere. Looking to the arguments canvassed by the learned Counsel for the petitioner there is no allegation, upon the method of holding interview. Thus, the selection process is not under challenge. What is under challenge is selection

itself. Perhaps this is an area where the writ cannot be issued by this Court because the selection of candidate depends upon a subjective satisfaction arrived at, by the Committee while assessing all the candidates.

III. Looking to the whole petition, it appears that the petitioner thinks herself the best and suitable candidate for appointment to the Post of Assistant Teacher, but, this thinking is not helpful to her. That all depend upon performance of other candidates in the Interview. She had no opportunity to see the performance of other candidates in the Interview. Therefore, high and tall claim of the petitioner that she is the best amongst all other candidates is nothing, but, cry in wilderness, and this cannot give her any appointment much less by the writ of mandamus.

IV. It has been held by the Hon'ble Supreme Court in Madan Lal and Others Vs. State of Jammu and Kashmir and Others, in Paragraphs No. 9 & 10 as under:

9. Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being respondents concerned herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Up to this stage there is no dispute between the parties. The petitioners also appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, then have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted. In the case of Om Prakash Shukla Vs. Akhilesh Kumar Shukla and Others, it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner.

10. Therefore, the result of the interview test on merits cannot be successfully challenged by a candidate who takes a chance to get selected at the said interview and who ultimately finds himself to be unsuccessful. It is also to be kept in view that in this petition we cannot sit as a Court of appeal and try to reassess the relative merits of the candidates concerned who had been assessed at the oral interview nor can the petitioners successfully urge before us that they were given less marks though their performance was better. It is for the Interview Committee which amongst others consisted of a sitting High Court Judge to judge the relative merits of the candidates who were orally interviewed, in the light of the guidelines laid down by the relevant rules governing such

interviews. Therefore, the assessment on merits as made by such an expert committee cannot be brought in challenge only on the ground that the assessment was not proper or justified as that would be the function of an appellate body and we are certainly not acting as a Court of appeal over the assessment made by such an expert committee.

[emphasis supplied].

4. In view of this decision, delivered by the Hon"ble Supreme Court once a candidate participates in interview, he is taking calculated chance and subsequently, if the candidate is not selected, no relief can be given to this type of the petitioner. In the facts of the present: case, interview process or method of holding Interview is not at all under challenge. As stated here-in-above, Selection Committee is constituted so that there may not be an arbitrary decision by one member of the Committee. Whole Committee has taken a decision for selection of Respondent Nos. 7 & 8.

5. As a cumulative effect of aforesaid facts, reasons and judicial pronouncements, I seen no reason to entertain this Writ Petition. There is no substance in this Writ Petition and hence, the same is. hereby, dismissed.