
(2013) 01 JH CK 0009

In the Jharkhand High Court

Case No : Writ Petition (S) No. 6079 of 2004

Prem Chandra Prasad Verma

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-01-2013

Acts Referred:

Citation : (2013) 2 AJR 88 : (2013) 1 JLJR 415

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Binod Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh

1. Heard counsel for the parties. The petitioner had approached this court because his claim for giving exoneration from appearing in the Departmental Accounts Examination, has been rejected contrary to the guidelines / notification dated 15th May 1992 wherein, according to the petitioner, on completion of 50 years of age on 01st August 1998, he was entitled to such exemption. In support thereof, circular of 1992 is annexed as annexure-1 to the writ application. According to the petitioner, departmental examination was conducted in the year 1999, but he could not appear because of pressure of departmental work and therefore, recommendation was made vide annexure-5/A dated 1st December 2003 under the signature of the Superintending Engineer, Drinking Water and Sanitation (Mechanical Circle), Ranchi. However, his matter was referred vide annexure-6 dated 03rd March 2004 to the Deputy Commissioner, South Chhotanagpur Division, Ranchi to consider the case of the petitioner in accordance with the Government Notification dated 15th May 1992 (annexure-1) in the matter of grant of exemption from appearing in the departmental examination. However, by letter dated 20th August 2004 (Annexure-7) issued under the signature of the Secretary to the Commissioner, Singhbhum (Kolhan)

Division, Chaibasa, petitioner's request has been refused and he has not been granted exemption from appearing in the departmental examination.

2. Respondents, on the other hand, have appeared and filed their counter affidavit. According to them, the petitioner had appeared in the departmental examination in the year 1994 but could not succeed in the second part and therefore, he has been denied the benefits available to the employees who have successfully passed in the departmental examination. It is their contention that the benefits of such notification is not applicable to the petitioner as he had failed to succeed in the departmental examination in the year 1994 itself and such exemption can be granted to those employees who have attained 50 years of age or if no departmental examination is held within preceding five years of attaining the age of 50 years. The petitioner however had, after completion of 50 years, applied to appear in the examination in the year 1999 again, but could not again appear due to preoccupation with his official work, although he never asked for leave in order to appear in the said examination in the year 1999. The petitioner has retired in the year 2008, as per the date of birth dated 1st August 1948. From the facts narrated herein above as well as from the submission of the parties, it appears that the petitioner had failed to clear the second part of the departmental examination held in the year 1994 and as per the notification dated 15th May 1992 (Annexure-1), the same benefit of exemption would be available to only such employees who tried to take part in the examination which could not be held because of official reasons or if before attaining the age of 50 years for the last preceding five years, no departmental examination was held. In this case, petitioner had appeared in the year 1994 prior to his attaining the age of 50 years and had failed in the second part and as such, did not fulfill the requirement as laid down in the notification contained at annexure-1 dated 15th May 1992.

The petitioner again tried to avail such exemption in the year 1999 even after completion of 50 years of age. In these facts and circumstances, action of the respondents cannot be found fault with. The writ petition is devoid of any merit and is accordingly dismissed.