
(2016) 04 JH CK 0125
In the Jharkhand High Court
Case No : Writ Petition (S) No. 3202 of 2014

Puja Shree

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 20-04-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 JCR 381 : (2016) 3 JLJR 268

Hon'ble Judges : Mr. Prashant Kumar, J.

Bench : Single Bench

Advocate : Mrs. Ritu Kumar, Advocate, for the Petitioner; Mr. H.K. Mehta, A.A.G, for the Respondents

Final Decision : Dismissed

Judgement

Mr. Prashant Kumar, J.—This application has been filed for quashing the reasoned order contained in Memo No. 235 dated 27.01.2012 (Annexure-8) by which the application of the petitioner for appointment on Class-III post in the Collectorate of Godda has been rejected.

2. It appears that as per the Circular of the State Government contained in Resolution No. 2147 dated 13.10.2008, the petitioner, being a graduate and belonging to premature triable, had applied for appointment on the Class-III post, but the same has been rejected on two grounds; firstly, there is no vacant post of Class-III employee in Godda Collectorate, secondly, the petitioner had graduated in the year 2010, though the said Circular is applicable only to those graduate, who passed the examination in the year 2008.

3. It is submitted by Mrs. Ritu Kumar, learned counsel for the petitioner that the petitioner appeared in the examination of B.A. for the batch 2008, but her result published in the year 2010. Therefore, respondent ought to have treated her the graduate of 2008. Accordingly, Mrs. Kumar submits that the reason for rejecting the application of the petitioner is not tenable.

4. On the other hand, learned Additional A.G. submits that from perusal of the resolution of the State Government (Annexure-A), it is clear that the candidate belonging to pre-mature tribal, who passed the graduate examination till the year 2008, are only entitled for appointment. He submits that admittedly petitioner passed the examination in the year 2010. It is submitted that the petitioner herself stated in the writ application that she appeared in the examination held in the month of July, 2009. Thus, it is clear that in the year 2008 she was not graduate. It is further submitted that as per Annexure-A, the aforesaid appointment can be done only against the vacant sanctioned post. Since there is no vacant sanctioned post in the Godda Collectorate, where the petitioner has applied for appointment, no appointment can be made.

5. Having heard the submissions, I have gone through the record of the case. From perusal of impugned order, I find that the application of the petitioner has been rejected on two grounds; firstly, no post of class-III employee is vacant in Godda Collectorate, and the second ground is that the petitioner has become graduate in the year 2010. From perusal of resolution as contained in Annexure-A, it is clear that only those candidates, belonging to Pre-mature Tribal community could be appointed on Class-III post, after relaxing the procedure for appointment, who were graduate in the year 2008. It is an admitted position that the petitioner appeared in the examination of Bachelor of Arts in the year 2009 and her result published in the year 2010. Under the said circumstance, I find and hold that she is not graduate in the year 2008.

6. It is well settled that the appointment can be made against the vacant sanctioned post. Since no vacant sanctioned post is available, therefore, no mandamus can be issued for appointing the petitioner. Accordingly, I find no merit in this writ application. Thus, the same is dismissed.

7. However, if petitioner, so desire, may apply in future, in accordance with law, for her appointment on Class-III post.