
(2018) 01 JH CK 0095

In the Jharkhand High Court

Case No : Letter Patent Appeal No. 494 Of 2015

Pushpanjali Kumari

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 31-01-2018

Acts Referred:

Citation : (2018) 01 JH CK 0095

Hon'ble Judges : D.N. Patel, J; Amitav K. Gupta, J

Bench : Single Bench

Advocate : Rajni Kant Ojha

Final Decision : Dismissed

Judgement

D.N. Patel, J

1. This Letters Patent Appeal has been preferred by the original petitioner of W.P. (S) No. 6092 of 2013, which has been dismissed by the learned Single Judge vide judgment and order dated 20th April, 2015.

2. Having heard counsels appearing for both sides and looking to the facts and circumstances of the case, it appears that earlier an advertisement was issued on 3rd February, 2010 for the post of Para Teacher in the subject of Arts.

3. It is alleged by the counsel for the respondent State that the said advertisement was withdrawn, whereas counsel appearing for the appellant submits that this advertisement was never withdrawn.

4. Be that as it may, the fact remains that in pursuance of aforesaid advertisement, appellant applied for the said post, but, later on it was found that already Respondent No.5 was working on the post in question and hence, no appointment was given to this appellant. Thus there was no vacancy. Two persons cannot work on one post.

5. Earlier, writ petition was filed by this appellant, being W.P.(S) No. 801 of 2012,

which was disposed of with a direction to make representation before the Deputy Commissioner, Giridih for an enquiry regarding genuineness of the documents produced by the Respondent No.5. This representation was disposed of by the Deputy Commissioner, Giridih vide order dated 22nd December, 2012 (Annexure 10 to the memo of this Letters Patent Appeal).

6. Being aggrieved and feeling dissatisfied by the decision of the Deputy Commissioner, Giridih, another writ petition was preferred by the present appellant, being W.P.(S) No. 6092 of 2013. This writ petition was dismissed by the learned Single Judge on 20th April, 2015 and hence, this Letters Patent Appeal has been preferred by the original petitioner.

7. Much has been argued out by counsel for the appellant to the effect that Respondent No.5 does not have the requisite qualification to hold the said post as the marksheet presented by the Respondent No. 5 is not tallying with the original one, as per report of the Deputy Commissioner, Giridih.

This argument is not at all helpful to the appellant mainly for the reason that until and unless Respondent No.5 (who was appointed as a Para Teacher pursuant to the decision of Aam Sabha dated 10th August, 2007) is removed from the services by following due procedure established by law, another person cannot be appointed on the post in question by the Aam Sabha of the concerned village even if advertisement was given and selection process is underway.

8. It is pertinent to mention here that there is no right vested even in the selected candidates of being appointed and therefore, in the facts of the case, there is no right vested in this appellant (who is not even selected), that first Respondent No.5 should be removed from the post in question and then the appellant should be appointed in his place. This argument on the part of the counsel for the appellant that Respondent No.5 should be removed from the post and he should be appointed in his place is premature in nature. Till Respondent No.5 is removed from the post in question by following due procedure of law, no one can be appointed on the said post and looking to the facts and circumstances of the case, it appears that if any action is to be taken against Respondent No.5, State of Jharkhand is always free and competent.

Moreover, even if Respondent No.5 is removed from the said post it does not mean that appellant will be appointed on that vacant post because even if the post falls vacant, then also no right is vested in the appellant of being appointed on the said vacant post and even if this appellant is selected then also there is no right vested in this appellant to get appointed on the said post.

This aspect of the matter has been properly appreciated by the learned Single Judge while deciding W.P.(S) No. 6092 of 2013 vide order dated 20th April, 2015 and we see no reason to take any other view than what has been taken by the learned Single Judge.

9. There is no substance in this Letters Patent appeal and the same is dismissed

with a cost of Rs. 10,000/- (Ten thousand), which shall be deposited by this petitioner, within a period of twelve weeks from today, before the Secretary, Department of Women, Child Development & Social Security, Government of Jharkhand towards the Juvenile Justice fund.

This amount shall be deposited in Bank A/c No.37344984625, Jharkhand Juvenile Justice Fund, State Bank of India, Project Bhawan, Hatia, either by cheque or bank draft. Aforesaid amount will be used for the welfare of the juveniles.

10. Copy of this order will be sent to the Secretary, Department of Women and Child Development & Social Security, Government of Jharkhand, and the Member Secretary, Jharkhand High Court Legal Service Authority, Ranchi.