

(2001) 07 JH CK 0080
In the Jharkhand High Court
Case No : CWJC No. 1365 of 1999

Rakesh Bhatia @ R.K. Bhatia

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 11-07-2001

Acts Referred:

Citation : (2001) 07 JH CK 0080

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : B.S. Lall, I. Sen Choudhary, for the Appellant; M. Patra, J.C. to G.P. II, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya J.

1. This application has been preferred by petitioner for issuance of a writ of mandamus, commanding the respondents to issue formal notification of appointment of petitioner in its P.K. Roy Memorial College, Dhanbad, his temporary appointment having approved and confirmed by the competent authorities.

Further prayer has been made by the petitioner for payment of salary for the period from May 1987 to March, 1990 and from March, 1991 till date.

2. The case of the petitioner is that the Gyan Chand Jain Commerce College, Chaibasa was an affiliated College under the Ranchi University. The Governing Body by its resolution dated 27.5.1979 requisitioned for two additional posts of lecturer, Commerce to meet the minimum requirement to impart studies. The Governing Body of the said College in its meeting held on 25.9.1980 authorised and issued mandate to the College to appoint two lecturers, in the department of Commerce In the prescribed manner. In the background, in pursuance of an advertisement, the petitioner applied and appeared in interview on 5.4.1981. In pursuance of interview letter dated 26.3.1981, the Selection Committee

recommended the name of petitioner and one Sri A.K. Tripathy on the basis of which the petitioner was appointed in the then scale of Rs. 700-1600/- vide letter dated 5.4.1981.

The Principal by its letter dated 17.5.1986 stated to have requested the Registrar, Ranchi University for regularisation of service of petitioner but the matter remained pending and in the meantime the College having made constituent College of Ranchi University, the salary of petitioner alleged to have stopped since May, 1987.

Further case of petitioner is that the Registrar, Ranchi University vide notification dated 24.3.1990 transferred the petitioner to one P.K. Roy Memorial College, Dhanbad in the same capacity against sanctioned post where the petitioner reported and joined on 26.3.1990 and functioning.

The Chancellor Ranchi University ordered for constitution of an Absorption Committee to scrutinise the validity of appointment of temporary lecturers subject to condition laid down under 1982 statutes. The case of the petitioner is that on the recommendation of the Absorption Committee, the Chancellor vide Memo No. 270/GS (I) dated 27.1.1992 directed the University to regularise the service of petitioner, in terms with statute. It is stated that the Screening Committee also recommended the case of petitioner alongwith 62 others vide its proceeding as contained in Annexure-5 but on 21.1.1991 mere notification in respect to 38 lecturers was issued excluding the petitioner.

The P.K. Roy Memorial College, Dhanbad in which the petitioner stated to be working was carved out and placed under the jurisdiction of respondent-Vinoba Bhave University, since the end of year 1992.

3. In the counter-affidavit, the respondent-Vinoba Bhave University has disputed the claim and raised doubt relating to posting of petitioner in P.K. Roy Memorial College, Dhanbad. It is stated that the Principal, P.K. Roy Memorial College, Dhanbad on receipt of information, to file counter-affidavit, vide letter dated 29.4.1993 forwarded the photostat copies of some papers regarding the service of petitioner. It is stated that on transfer from G.C. Jain College, Hazaribagh the petitioner worked in P.K. Roy Memorial College, Dhanbad from 26.3.1990 to February, 1991 upto which he received salary whereinafter it was withheld for verification of certain documents. By letter written by Principal, G.C. Jain College, Chaibasa to the Principal, P.K. Roy Memorial College, Dhanbad dated 30.7.1990, it was intimated that the petitioner was working against unsanctioned post since 15.4.1981. He was neither working against recommended post, nor against any sanctioned post. The petitioner was also removed from the service by the Principal of G.C. Jain College w.e.f. 22.5.1987 with the approval of the Vice-chancellor, Ranchi University and was not allowed to face the interview before the Selection Committee constituted by the Ranchi University in the year 1982. Thus, the stand taken to that the petitioner no longer remained an employee of Ranchi University but somehow or other during the period of earlier Vice-Chancellor,

Ranchi University, late Lal Saheb Singh, the petitioner managed an order of transfer in spite of removal from service.

4. From the stand taken by the parties, it will be evident that there is a disputed question of fact as to whether the appointment of petitioner was made against a sanctioned post or not. It is also not clear as to whether the appointment was made after due advertisement published in the newspaper. There is nothing on the record to suggest that the recommendation of College Service Commission/ University Service Commission was obtained. In absence of such material facts and evidence, it is not possible for this Court to determine the question as to whether the petitioner is eligible for absorption/regular appointment in terms with 1982 statute or not.

5. For the reasons aforesaid, no relief can be granted. The writ petition is, accordingly dismissed.

However, in the facts and circumstances, there shall be no order, as to costs.

6. Petition dismissed