
(2012) 11 CHH CK 0003
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 1879 of 2012

Ram Jeevan Yadav

APPELLANT

Vs

State of Chhattisgarh and Another

RESPONDENT

Date of Decision : 29-11-2012

Acts Referred:

Citation : (2013) LabIC 998

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : B.L. Dembra, for the Appellant; Pankaj Shrivastava, Panel Lawyer for State, for the Respondent

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—With the consent of learned counsel appearing for the parties, the matter is heard finally. By this petition, the petitioner seeks a direction to the respondents to consider his name for appointment on the vacant post of Lecturer, as per the advertisement dated 1.1.2009 and further issue order pursuant to the result and counseling made thereof, within stipulated period.

2. Shri Dembra, learned counsel appearing for the petitioner submits that the petitioner is working in 100% Government Aided School namely Lahidi Multipurpose Higher Secondary School, Chirmiri. An advertisement was issued on 1.1.2009 by the respondent No. 1, inviting applications for the appointment by way of promotion, on the post of Lecturer. The petitioner, after obtaining due permission, appeared in the examination conducted by the Chhattisgarh Vyavasayik Pariksha Mandal (for short "the CGVYAPAM"), held on 25.10.2009 in which the petitioner was declared successful and he was called for counseling also on 23.11.2010, however, till date, no promotion order has been issued to the petitioner, despite the fact that several posts of Lecturers are still lying vacant.

3. On the other hand, Shri Shrivastava, learned counsel appearing for the State/

respondents submits that even if the petitioner was allowed to appear in the examination, which was admittedly conducted by the CGVYAPAM, the petitioner does not acquire any right to be promoted, as the permission to appear in the examination itself was a mistake. In Clause (2) of the advertisement, it is clearly stated that the Assistant Teachers/Teachers of the School Education Department only, are entitled to appear in the examination for promotion to the post of Lecturer. The petitioner is not an employee of the School Education Department, but is an employee of a private 100% Government Aided School. Even though, the petitioner may be getting all the pay and perks as granted to the Teachers/Assistant Teachers of the School Education Department, but the petitioner still remains the employee of the private school. Thus, this petition deserves to be dismissed at the threshold.

4. Heard learned counsel appearing for the parties, perused the pleadings and documents appended thereto.

5. On perusal of Clause (2) of the advertisement, it is notice that only the Teachers/Assistant teachers of the School Education Department were entitled to participate in the said examination. The petitioner has only claimed parity on the ground that he is getting the salary and other monetary benefits as granted to the Teachers/Assistant Teachers of the School Education Department. However, the petitioner has failed to establish that he was a Government employee in the School Education Department, or his name finds place in the gradation list of the Teachers/Assistant Teachers of the School Education Department. Grant of 100% aid by the State Government does not convert private school teacher or employee to the Government employee. If the petitioner was not competent to appear in the examination itself, then there is no question of issuing any promotion order in his favour, even if he qualifies in the examination or he was called for counseling. In view of the above, the petition being bereft of merit, is accordingly dismissed at the admission stage itself.