

(2011) 07 JH CK 0017
In the Jharkhand High Court
Case No : L.P.A. No. 423 of 2003,

Ram Prawesh Tiwari

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-07-2011

Acts Referred:

Citation : (2011) 4 JCR 190

Hon'ble Judges : Prakash Tatia, Acting C.J.; Jaya Roy, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. By Court-Heard learned counsel for the parties.

2. The appellant was given appointment by the Additional Deputy Director of Education, Government of Bihar and his services were terminated vide order dated 14th November, 1998 (Annexure- 1). By the same order dated 14th November, 1998 services of 30 similarly situated employees were also terminated. According to the learned counsel for the appellant, all those employees preferred writ petitions before the then Ranchi Bench of the Patna high Court and those petitions were allowed and employees were reinstated, in view of the different orders passed in their favour. The petitioner-appellant placed on record the copies of three such orders passed. by the Single Bench in favour of such employees as Annexure-8, Annexure-8/A and Annexure-8/B but the learned Single Judge violating all propriety refused to follow the judgments delivered by the Coordinate Bench by merely saying that the learned Single Judge is not in agreement with the view expressed by the Coordinate Bench in the said judgments, Annexures-8 and 8/A and not only that, but refused to accept the

orders passed in the L.P.A., on the ground that no reason has been given in the order by the Division Bench while confirming the order of the learned Single Bench. The learned counsel for the appellant submitted that thereafter the State preferred the SLP before the Supreme Court, challenging the order passed in L.P.A. and that SLP was dismissed vide order dated 19th January, 2001, copy of which has been placed on record as Annexure-20. The learned counsel for the appellant also submitted that the learned Single Judge in this case was of the view that the procedure was not followed by the Additional Deputy Director of Education while giving the appointment to the petitioner-appellant and the Additional Deputy Director of Education was not competent to give appointment; whereas in the case of Krishna Kumar Tiwary, in his earlier round of litigation, writ petition of Krishna Kumar Tiwary being C.W.J.C. No. 82 of 1999(R) was allowed vide order dated 23rd August, 1999, however, giving liberty to the State to follow the procedure and pass appropriate order, in accordance with law, even of termination of services of the said Krishna Kumar Tiwary. The said Krishna Kumar Tiwary was reinstated in the services in the light of the order of the High Court dated 23rd August, 1999 passed in CWJC No. 82 of 1999(R) but his service was again terminated vide order dated 6th May, 2004. The said Krishna Kumar Tiwary approached Jharkhand High Court (after creation of Jharkhand State) by preferring WP(S) No. 3537 of 2004 and said writ petition was also allowed vide order dated 17th August, 2006, wherein again it has been reiterated that Additional Deputy Director, Education was competent to give appointment as well as it has been held that substantial procedure of giving appointment was complied with by the said authority.

3. In view of the above reasons, learned counsel for the appellant submits that judgment passed by the learned Single Judge dated 18th April, 2003 deserves to be set aside as the same is contrary, not only of the decision of the Coordinate Judge but also contrary to the several decisions given in relation to the same order dated 14th November, 1998, which has been set aside for all rest of the employees, who preferred writ petitions.

4. We are of the considered opinion that the learned Single Judge could not have ignored the judgments passed by the Coordinate Bench and if he

had a different view than taken in judgment delivered by Coordinate Bench, he should have referred the matter to the larger Bench.

5. Be it as it may, in all other matters the judgments have attained the finality and issue is no more res Integra with respect to the competence of the

Additional Deputy Director, Education in giving appointment to the employees named in the Annexure-1 dated 14th November, 1998 as well as

with respect to the validity of the procedure adopted in giving appointment to these employees and in view of the fact that all other employees who

preferred writ petitions in time except the appellant have been reinstated in service, who obtained the order of this Court, therefore, we do not find

any just reason to deny the same relief to the present petitioner-appellant.

6. In view of the above reason, the impugned order dated 18th April, 2003 is set aside and writ petition of the petitioner is allowed. The order

dated 14th November, 1998 qua the petitioner is set aside. The respondents are directed to reinstate the petitioner-appellant in service with full

back-wages and benefit of the continuance of the service. The order may be complied with within two months from the date of receipt of a copy of

this order.