
(2018) 08 JH CK 0062

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1800, 1832 of 2014

Ramesh Chandra Behra

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 13-08-2018

Acts Referred:

Citation : (2018) 08 JH CK 0062

Hon'ble Judges : PRAMATH PATNAIK, J

Bench : Single Bench

Advocate : Subha Jha, Arbind Kumar Jha, Satish Kumar, Chandra Prabha, Rohit

Final Decision : Disposed Off

Judgement

Pramath Patnaik, J

1. Since identical issues are involved in both the writ applications, with the consent of learned counsel appearing for the parties, both the writ

applications were heard together and by this common order, they are being disposed of at the admission stage itself.

2. The petitioners seek direction upon the respondents to give notional appointment with effect from the date on which their juniors and other similarly situated persons were given offer of appointment to the post of Assistant Teachers in various primary schools and further for direction upon the

respondents to grant benefits of Pension and Membership of Subscription to General Provident Fund and other benefits at par with their juniors and

like petitioners of W.P. (S) No. 1352 of 2007 and other similar cases.

3. Heard Ms. Subha Jha, learned counsel for the petitioners and Mr. Satish Kumar, A.C to learned G.A. and Mr. Rohit, A.C to learned S.C. IV for

the respondents.

4. Learned counsel for the petitioners submitted that after going through the selection process made vide Advertisement of 2002, the petitioners along with other candidates were declared successful for appointment on the post of Assistant Teachers in various primary schools, as per the provisions of Jharkhand Primary Schools Appointment Rules, 2002. It has further been submitted that after declaration of result on 13/14.11.2003 recommending 1079 successful candidates by the J.P.S.C, the appointment letters were issued from the Office of District Superintendent of Education, West Singhbhum, Chaibasa vide memo dated 30.12.2003 to some of the candidates. But surprisingly, pick and choose method were adopted while issuing appointment letters as persons below in the merit list to the petitioners were issued offer of appointment but the petitioners and some other candidates were not issued appointment letters. Against such discrimination, the petitioners approached respondent no. 6, who took the plea that B.Ed degree of the petitioners had to be sent for verification by the department, therefore, they have not been issued letter of appointment.

Thereafter, the Secretary, Human Resources Development Department also issued direction to respondent no. 6 to make appointment of the teachers, whose names were recommended by the Jharkhand Public Service Commission after obtaining affidavit from the candidates regarding genuineness of their training certificates. In the light of aforesaid order, the petitioners even submitted their respective affidavits but no action was taken by respondent no. 6. Being aggrieved by the inaction on the part of respondents, some of the aggrieved teachers approached this Court by invoking writ jurisdiction of this Court and only thereafter finally on 01.10.2005 appointment letters were issued to the petitioners.Â

5. Learned counsel for the petitioners further submitted that since there was discrimination in issuance of appointment letters to several candidates, depriving them from the benefits of Pension and General Provident Fund benefits, they moved this Court by invoking writ jurisdiction of this Court for grant of notional appointments w.e.f the date when their juniors were appointed in most discriminatory way. Learned counsel for the petitioners further submitted that in one of such writ applications, being W.P. Â (S)Â No.Â 1352Â ofÂ 2007Â [HarendraÂ KumarÂ GhoshÂ &Â Anr.

Vs. State of Jharkhand & Ors] the Honâ??ble Court has been pleased to direct the respondents to issue office circular/order/notification giving

notional date of appointment with effect from 22nd December, 2003 to the petitioners, which was affirmed in L.P.A. No. 446 of 2012.

6. Learned counsel for the petitioners further referring to order dated 12.04.2016 passed in L.P.A. No. 588 of 2015 submitted that the same issue

once again came up before the Division Bench of this Court wherein also, the Honâ??ble Court took the similar view as been taken in Harendra

Kumar Ghosh (Supra) case. In the backdrop of aforesaid facts, the learned counsel for the petitioners submitted that petitioners be granted similar

relief. Learned counsel for the petitioners further referring to Annexure 12/B to the supplementary affidavit dated 29.06.2018, issued from the office

of District Superintendent of Education, West Singhbhum, Chaibasa vide memo dated 02.11.2016, submitted that in compliance of order passed in

L.P.A. No. 588 2015, the petitioners in that case were granted benefit of notional appointment w.e.f 22.12.2003 and accordingly, they have been

given the benefit of General Provident Fund and other retiral benefit.

7. Learned counsel for the respondents submitted that the Jharkhand Public Service Commission published the result in November, 2003 in the

newspaper and recommended the names of the candidates, whose names find place in the merit list for appointment on the post in question in the

district of West Singhbhum with a Clause to appoint them after due verification of the training certificate. It has been submitted that after receipt of

such recommendation list, the District Education Establishment Committee held its meeting on 23.12.2003 and thereafter issued order for verification

of educational and training certificates and some doubtful cases were kept pending and regarding them letter was sent to higher authorities for proper

direction and immediately after receipt of such direction from the Secretary, HRD Department, the petitioners were appointed. So far claim of the

petitioner for grant of benefit of GPF scheme is concerned since the petitioners have joined after coming into force of 1996 Contributory Pension

Scheme, 2004, the petitioners are not entitled to get the benefit of old pension scheme and G.P.F scheme. However, learned counsel for

the respondents does not dispute the law laid down in the case of Harendra Kumar Ghosh (Supra) and other case referred by learned counsel for the

petitioners.

8. After hearing learned counsel for the parties at length and on close scrutiny of

materials available on record and also the decision rendered in the case of Harendra Kumar Ghosh (supra) and memo dated 02.11.2016 annexed as Annexure 12/B to the supplementary affidavit dated 29.06.2018, issued from the office of District Superintendent of Education, West Singhbhum, Chaibasa, I am of the considered view that the case of the petitioner deserves to be considered in the light of Harendra Kumar Ghosh (supra) case.

9. In the net result, the writ petition stands disposed of to the extent that the respondent-State shall verify as to whether necessary documents, after declaration of result were submitted by the petitioner in time or not and if the case of the petitioner is ultimately found similar on facts, as in the case of Harendra Kumar Ghosh (supra), the case of the petitioners shall also be considered for giving them notional appointment w.e.f 22.12.2003. It is needless to mention here that if the petitioners are granted said relief, they shall not be entitled for salary for the period 22.12.2003 to 01.10.2005 or till the date of their actual joining.

10. With the aforesaid observations and direction, the writ applications stands disposed of.