
(2010) 06 SHI CK 0184
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 2083 of 2009

Sandeep Kumar and Others	Vs	APPELLANT
State of Himachal Pradesh and Others		RESPONDENT

Date of Decision : 03-06-2010

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2010) 3 ShimLC 282

Hon'ble Judges : Kuldeep Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Kuldeep Singh, J.—The Petitioners have filed this petition for issuing writ of mandamus to Respondents for getting job surety bonds executed from 2 year JBT course students admitted in Respondent No. 3 college on the basis of merit list of 2004 JBT test, similar to those executed by students admitted in District Institutes of Education Training (DIETS) and in four private colleges named in the writ petition and also admitted on the strength of merit list of 2004 JBT test with further direction to Respondents to provide regular jobs to 2 year JBT course students of Respondent No. 3 college on similar lines as adopted in case of students admitted in DIETS.

2. The further case of the Petitioners is that they are bonafide residents of Himachal Pradesh. The Respondent No. 1 State in 2004 advertised vide Annexure P-2 filling up of 1800 seats of Junior Basic Teachers (JBT) Training Course in 10 DIETS. This was a two year course and from the combined merit list, 50 students each in order of merit were to be selected for two private colleges, but the names of said two private colleges were not disclosed in the advertisement.

3. The National Council of Teachers Education (NCTE) had approved and granted affiliation to 11 private colleges in the Respondent-State including colleges; (i) Krishma Educational Centre, Dadour District Mandi, (ii) Indian Institute of

Education, Hari Devi Ghana-Hatti, District Shimla, (iii) Abhilashi Educational Society, Ner Chowk, District Mandi (iv) Dwarka Dass Memorial Sai Institute of Educational Training, Kallar, District Hamirpur and (v) Trisha College of Education, Thain, District Hamirpur.

4. The result of JBT examination was announced by the State on 16.10.2004 but due to litigation the results were not given effect. It was only in March 2006 the result as per the approved guidelines of the High Court was given effect.

5. On the basis of merit list of JBT test held in 2004, 1800 seats meant for DIETS were filled in by the Respondent-State and classes started functioning in October, 2006. The students were required to execute a bond with Respondent No. 1 State for serving in the State. The State committed to give students regular jobs.

6. On 1.8.2007 vide Annexure P-4 the Respondent No. 1 State published the roll numbers for Counselling which was to be held for 50 JBT seats for each of the following four private colleges namely; (i) Krishma Educational Centre, Dadour District Mandi, (ii) Indian Institute of Education Hari Devi Ghana-Hatti, District Shimla, (iii) Abhilashi Educational Society, Ner Chowk, District Mandi (iv) Dwarka Dass Memorial Sai Institute of Educational Training, Kallar, District Hamirpur.

7. The advertisement for 2nd Counselling in the aforesaid four colleges was published vide Annexure P-5 dated 28.8.2007. The Respondent No. 1 State in September, 2007 filled in about 200 seats of JBT course in the aforesaid four private colleges from the merit list of 2004. The affiliation to these colleges was not granted by the Respondent-State by that time. The Respondent No. 1 State vide communication dated 29.9.2007 Annexure P-7 intimated the aforesaid four colleges that the students would be provided regular jobs after completion of training and they were directed to fill in the bonds.

8. The Respondent No. 3 college was not allotted its 50 JBT seats, therefore, Respondent No. 3 filed CWP No. 1903 of 2007 in the High Court. On 12.12.2007 the Respondent-State apprised the High Court that 50 JBT seats have been allotted to Respondent No. 3, in these circumstances, writ petition was withdrawn on 20.8.2008.

9. The Respondent No. 1 State after allotment of 50 seats to Respondent No. 3, directed Respondent No. 3 to fill up these 50 seats out of remaining merit list in the order of merit of those who had appeared in JBT test held in 2004. The Counselling for these 50 seats of Respondent No. 3 was held vide advertisement dated 21.2.2008 Annexure P-10. The Petitioners w.e.f. March, 2008 alongwith other 43 students are undertaking their 2 year JBT course in Respondent No. 3 college. The Respondent No. 1 State had granted affiliation to Respondent No. 3 college vide Annexure P-12 dated 7.10.2008.

10. The grievance of the Petitioners is that all students who were selected to undergo JBT course out of 2004 test result either in DIETS or in aforesaid four private colleges, had executed the bonds with the Respondent No. 1 State for

regular jobs. The Petitioners who are students of Respondent No. 3 college also requested the authorities to get the bonds executed from them and to provide them regular job security. The Respondent No. 3 college had also sent letters to Respondent-State for execution of bonds by the students and for regular job security. On 28.5.2009 the Petitioners were verbally told by Respondent No. 1 State officials that their requests could not be acceded to and that their file has been closed. The Petitioners have alleged that they have obtained information under RTI that all students who were admitted in DIETS on the basis of 2004 JBT test have been given regular jobs and jobs surety bonds had been got executed from such students by Respondents except Petitioners. All students admitted on the basis of 2004 JBT test in the aforesaid four colleges had been undergoing 2nd year JBT course and would also be provided jobs on regular basis subject to availability of posts, such students have also executed job surety bonds.

11. The Respondent No. 1 State has granted one time relaxation to JBT students for providing regular jobs on the basis of job surety bonds. The benefit has been extended to all students who appeared in 2004 JBT test and have been admitted either in DIETS or in four aforesaid colleges, but such benefit has not been extended to Petitioners who are students of Respondent No. 3 college. On these facts the petition has been filed and it has been alleged that the action of Respondents 1, 2 in not providing regular jobs to Petitioners as has been provided to the students of DIETS and aforesaid four colleges, is arbitrary and violative of Article 14 of the Constitution of India.

12. The petition has been contested by Respondents 1, 2 by filing reply, they have admitted that Petitioners are bona fide residents of Himachal Pradesh. It has been alleged that since 50 seats were allotted to Respondent No. 3 college in the year 2008 and the session of the Petitioners including other candidates started w.e.f. 5.3.2008, therefore, the question to execute the surety bonds with Petitioners for regular jobs as JBT teachers does not arise at all because the State in the month of February, 2008 had taken a policy decision that all regular appointments will be made on contract basis, therefore, surety bonds were not executed with the JBT trainees of Respondent No. 3 college.

13. I have heard the Learned Counsel for the parties. The petition has been filed by seven students of Respondent No. 3 college, but they have pleaded that the petition has also been filed for the benefit of other 43 students mentioned in Annexure P-1 who are also the students of Respondent No. 3 college. In fact CMP No. 4172 of 2009 has been filed for permission to file the writ petition on behalf of all the students who are signatories of Annexure P-1. The Petitioners and other 43 students of Respondent No. 3 college mentioned in Annexure P-1 have common cause in the petition, therefore, 43 students mentioned in Annexure P-1 are also permitted to file the petition through Petitioners as their representatives, accordingly CMP No. 4172 of 2009 is allowed.

14. The case of the Petitioners is that vide Annexure P-2, Respondent No. 1 State in the year 2004 advertised filling up of 1800 seats of JBT Training Course in 10

DIETS. The result was announced on 16.10.2004 but actual admissions could not be made as the matter remained in litigation. The Respondent No. 1 State ultimately filled in 1800 seats meant for DIETS on the basis of merit list of JBT test held in 2004 and classes started functioning in DIETS in October, 2006. All students admitted in DIETS on the basis of merit list of the year 2004 had executed bonds with Respondent No. 1 State for serving the Respondent No. 1 State. The State on its turn committed to give such students regular jobs.

15. The State vide Annexure P-4 dated 1.8.2007 notified Counselling for JBT Training. It has also been mentioned in Annexure P-4 that the Government has decided to allot candidates for two years JBT training out of the candidates who appeared in the test conducted by H.P. Board of School Education in the year 2004 to the following institutions: (i) Krishma Educational Centre, Dadour, Distt. Mandi, (ii) Indian Institute of Education, Hari Devi, Ghana-Hatti, Distt. Shimla, (iii) Abhilashi Educational Society, Ner Chowk, Distt. Mandi (iv) Dwarka Dass Memorial Sai Institute of Educational Training Kallar, Distt. Hamirpur. The roll numbers of the candidates who were eligible for Counselling were also published so also the dates of Counselling.

16. The Learned Counsel for the Petitioners has submitted that Respondent No. 1-State in this manner had filled in 200 seats in JBT course upto September, 2007 in four private colleges on the basis of merit list of 2004. The Respondent No. 2 vide letter dated 29.9.2007 Annexure P-7 informed the aforesaid four colleges that the matter concerning the execution of the bonds by the JBT trainees has been re-considered by the Government keeping in view the fact that they have gone through the process of examination and selection. Now it has been decided by the Government vide letter dated 26.9.2007 that they may be offered permanent employment after the completion of training, hence the condition of contract service be amended in the bond to be executed by the JBT trainees of batch 2006-2008 and provision to the effect that the service would be on regular basis can be included.

17. The Respondent No. 3 in the mean time filed CWP No. 1903 of 2007. On 12.12.2007, the learned Deputy Advocate General had placed on record a letter from the Principal Secretary (Education) addressed to the Advocate General in CWP No. 1903 of 2007 informing that 50 seats have been allotted to Respondent No. 3 institute vide letter dated 11.12.2007 which is clear from order dated 12.12.2007 passed in CWP No. 1903 of 2007. The CWP No. 1903 of 2007 was dismissed as not pressed on 20.8.2008, but fact remains that the Government had allotted 50 seats to Respondent No. 3 college on 11.12.2007.

18. It has also come on record that Respondent No. 2 vide advertisement dated 21.2.2008 Annexure P-10 had decided to allot candidates for two years JBT training out of the candidates who appeared in the test conducted by H.P. Board of School Education in the year 2004 to Respondent No. 3 college. The roll numbers of the candidates for Counselling and date of Counselling was also fixed in Annexure P-10. The Petitioners and the students mentioned in Annexure P-1

were ultimately admitted in Respondent No. 3 college. The Respondents No. 1 and 2 have pleaded that the session of the Petitioners including other candidates started w.e.f. 5.3.2008. The Government in February, 2008 had taken a policy decision that all regular appointments will be made on contract basis. It has also been pleaded that since session of Petitioners started w.e.f. 5.3.2008 after the decision of the Government vide which it was decided that all further appointments shall be made on contract basis, therefore, question of executing surety bonds by the Petitioners for regular jobs as JBT teachers does not arise at all.

19. The Respondents No. 1, 2 in the reply have placed the Petitioners and other 43 students of Respondent No. 3 college in one category and about 200 students of aforesaid four colleges including 1800 students of DIETS in another category. There is no denial of the fact that about 200 students of the aforesaid four colleges and 1800 students of DIETS were asked to execute surety bonds in favour of Respondent No. 1 State, who in turn committed to give them regular employment. The Petitioners and 43 other students of Respondent No. 3 college have been denied regular jobs on the ground that they were given admission on 5.3.2008 and before that Government in February 2008 had taken a policy decision that all further appointments shall be made on contract basis.

20. The Respondents No. 1, 2 in para 2 (viii) of the reply have stated that 50 seats were allotted to Respondent No. 3 college in the year 2008, but this statement is factually incorrect inasmuch as vide order dated 12.12.2007 in CWP No. 1903 of 2007, 50 seats were allotted to Respondent No. 3 college on 11.12.2007. The Respondents No. 1, 2 however, in para 2 (viii) have further stated that the session of the Petitioners including other candidates started w.e.f. 5.3.2008. The starting of the course w.e.f. 5.3.2008 for Petitioners and other 43 students of Respondent No. 3 college was not within the hands of the students.

21. The test was conducted in 2004 and thereafter admissions on the basis of said test were made in DIETS and in aforesaid four colleges as well as in the college of Respondent No. 3 on the basis of 2004 test. It is the case of the Petitioners and 43 other students of Respondent No. 3 college that except for the students of Respondent No. 3 college all the admitted students either in the DIETS or in aforesaid four colleges on the basis of 2004 test were asked to give surety bonds to Respondent No. 1 to serve Respondent No. 1 on regular basis and Respondent No. 1 committed to appoint them on regular basis. Only the students of Respondent No. 3 college have been discriminated arbitrarily by denying them regular jobs opportunity on successful completion of JBT course after executing bonds. The case of the students of Respondent No. 3 college is similar to the students who were given admission in DIETS and aforesaid four colleges.

22. It emerges from the material placed on record that the students of DIETS and aforesaid four colleges and students of Respondent No. 3 college were given admissions on the basis of 2004 test. The State had committed to give regular

jobs to all students who have successfully completed the course from DIETS and aforesaid four colleges. It is not the case of Respondent No. 1 State that prior to February 2008 all students who were given admissions in DIETS on the basis of 2004 test were already given regular jobs after getting surety bonds from such students for serving the State. It is also not the case of Respondent No. 1 State that after February 2008 the students who passed out JBT course from DIETS or from aforesaid four colleges were informed that they would not be given regular jobs as the Respondent No. 1 State had taken a policy decision that after February, 2008 all regular posts would be filled in on contract basis.

23. The Petitioners and 43 students of Respondent No. 3 college in all 50 students, about 1800 students of DIETS and about 200 students of aforesaid four colleges who were given admissions on the basis of 2004 test constitute one class. The Respondent No. 1 State has put the Petitioners and 43 students mentioned in Annexure P-1 in separate class than the students of DIETS and aforesaid four colleges but such class is not based upon intelligible differentia. The classification made by Respondent No. 1 State for Petitioners and 43 students is arbitrary and has no nexus with the object sought to be achieved. The policy decision of February 2008 is prospective and cannot be applied retrospectively to Petitioners and 43 students of Respondent No. 3 college when similarly situated students admitted on the basis of same test of 2004 have been assured regular jobs by Respondent No. 1 State after executing surety bonds. The Petitioners and 43 students have offered to execute similar surety bonds for serving Respondent No. 1 State after successful completion of their course as have been executed by the students of DIETS and aforesaid four colleges. The denial of job opportunity to Petitioners and 43 students of Respondent No. 3 college mentioned in Annexure P-1 by Respondent No. 1 State as such is not sustainable.

24. No other point was urged.

25. The result of the above discussion, the petition is allowed. The Respondents No. 1, 2 are directed to offer similar job opportunity to Petitioners and 43 students mentioned in Annexure P-1 as has been offered to the students of DIETS and four colleges: (i) Krishma Educational Centre, Dadour District Mandi, (ii) Indian Institute of Education, Hari Devi Ghana-Hatti, District Shimla, (iii) Abhilashi Educational Society, Ner Chowk, District Mandi (iv) Dwarka Dass Memorial Sai Institute of Educational Training, Kallar, District Hamirpur after successful completion of JBT course in which they were admitted on the basis of 2004 test with a further direction to Respondents No. 1, 2 to get necessary surety bonds from Petitioners and 43 students mentioned in Annexure P-1 for serving Respondent No. 1 State on regular posts of JBT teachers on availability of posts. No costs.