

(2005) 07 JH CK 0043

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1396 of 2002

Sanjay Kumar

APPELLANT

Vs

Indian School of Mines and Others

RESPONDENT

Date of Decision : 11-07-2005

Acts Referred:

Citation : (2005) 3 JCR 372

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Rajiv Ranjan and Amit Kumar, for the Appellant; Ananda Sen, A.K. Das and Indrajeet Sinha, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—In this writ petition, the petitioner seeks issuance of a writ commanding upon the respondent Nos. 1 to 4 to regularize/absorb the services of the petitioner on permanent basis in pursuance of the order dated 23.3.2000 passed by the Court in C.W.J.C. No. 3249 of 1998(R) and to quash the letter dated 18.10.2001 by which the representation of the petitioner has been rejected by respondent No. 3 - the Registrar, Indian School of Mines, Dhanbad.

2. The facts of the case lie in a narrow compass.

The petitioner was appointed as Project Assistant under the Department of Applied Geology for a period of two years. The tenure of the appointment was extended upto 23.3.1998. Admittedly, the service of the petitioner was to be governed by the terms and condition of the Special Assistance Programme conducted on the recommendation of the Education Commission and in consultation with the University Grants Commission. The petitioner was again appointed as a Project Assistant with the approval of the University Grants Commission w.e.f. 21.4.1998 for a further period of two years on payment of Rs. 2000/- per month. Thereafter, the petitioner claimed his absorption/regularization in services by filing a writ petition being C.W.J.C. No. 3249/98R.

The writ petition was disposed of on 23.3.2000 with a simple direction to the respondents to consider the case of the petitioner for regularization/absorption in service and to take a decision in accordance with law. Against the said order, the Indian School of Mines preferred Letters Patent Appeal being L.P.A. No. 184 of 2000(R). The Division Bench of this Court was of the view that it is the respondents-University Grants Commission who can take a final decision in the matter in terms of the direction given in the writ petition. The Division Bench, therefore, directed the University Grants Commission to take a decision in the matter of regularization/absorption of the services of the petitioner. The respondents-University Grants Commission being aggrieved by the aforesaid order of the Division Bench moved the Supreme Court by filing S.L.A. (C) No. 19497 of 2000 which was disposed on 30.4.2001 without interfering with the said order. Consequently, the University Grants Commission in compliance of the order of the Division Bench considered and disposed of the representation by passing a reasoned order. The Commission in its order held that there is no regular cadre of the Project Assistant under the Special Assistance Programme which is implemented by University Grants Commission at selected departments/institutions. It is not a permanent scheme and is given to any department for a maximum period of five years at any given time. It is further pointed out that the performance of the department under scheme was to review after five years and on the basis of performance, the scheme is continued or discontinued. In that view of the matter, the question of regularization of the petitioner as Project Assistant does not arise. In the last line of the order, the Commission has given liberty to the petitioner to approach the competent authority of Indian School of Mines to consider his case for absorption/regularization.

3. Mr. Rajiv Ranjan, learned counsel appearing for the petitioner, drew my attention to the various annexures and submitted that Indian School of Mines is bound to regularize/absorb the services of the petitioner. Learned counsel also pointed out the case of similarly situated person, namely, Sri Hari Ranjan Singh, who has been regularized in service. The learned counsel seeks a direction upon the Indian School of Mines to consider his case for regularization.

4. In the facts of the case, I am unable to accept the submission of the counsel for the petitioner and to reconsider the entire matter on merit and issue any direction to the Indian School of Mines, Dhanbad. As noticed above in the earlier writ petition, the petitioner sought regularization and a direction to that effect was prayed for. Learned Single Judge disposed of the writ petition with a direction to the respondents-Indian School of Mines to consider the representation of the petitioner. The respondents-Indian School of Mines being aggrieved by the said order filed a Letters Patent Appeal being LPA No. 184 of 2000(R). The Division Bench modified the order by directing the University Grants Commission to consider the representation filed by the petitioner for regularization. The University Grants Commission being not satisfied with the said direction moved the Supreme Court in SLP which was disposed of on 30.4.2001. For better appreciation, the order passed by the Supreme Court is

quoted herein below :--

"In our view, the direction given by the High Court does not call for any interference by the Court as it is open to the petitioner to say that the petitioner is not having any cadre in which respondent No. 1 could be posted or regularized and that his term has come to an end. In this view of the matter, this petition is disposed of."

5. From the aforesaid order it is manifest that the Supreme Court did not interfere with the direction issued by the Division Bench to the University Grants Commission for consideration of the representation of the petitioner. In compliance of the aforesaid direction, the Commission considered the representation of the petitioner and in the order passed by the Commissioner it has been categorically mentioned that there is no provision for regularization of Project Assistant. As a matter of fact, the scheme of Special Assistance Programme is not a permanent scheme and can be given to any department for a maximum period of five years at any given time. It is further mentioned that the Project Assistant is purely an ad hoc appointment which comes to an end on the expiry of the programme.

6. Taking into consideration the entire fact of the case and orders passed by this Court and the L.P.A. and the S.L.A. (C) of the Supreme Court, I am not supposed to reconsider the entire matter on merit and to issue any direction to the Indian School of Mines to consider the case of the petitioner for regularization. Be that as it may be, merely because the petitioner worked under the Scheme for a period of two years and that was extended for another period of two years does not give any legal right to the petitioner for absorption/ regularization in the services. For the reasons above, I do not find any merit in this writ petition which is accordingly dismissed.