
(2001) 07 JH CK 0034
In the Jharkhand High Court
Case No : CWJC No. 3818 of 1999 (R)

Santosh Kumar Mondal and Others	Vs	APPELLANT
State of Bihar and Others		RESPONDENT

Date of Decision : 31-07-2001

Acts Referred:

Citation : (2001) 91 FLR 358

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

Bench : Single Bench

Advocate : R.S. Mazumdar, for the Appellant; K.K. Singh and JC to AAG, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard Mr. R.S. Mazumdar, learned counsel for the petitioners and Mr. K.K. Singh, learned JC to AAG.

2. In this writ application the petitioners have prayed for quashing the Officer order dated 16.5.1997 issued under the signature of District Education Officer. Dhanbad whereby petitioners have been removed from the service and their salary have been stopped.

3. Petitioners were appointed on the post of Clerk and peon in the year 1982. Their services were terminated on 23.7.1992 on the ground that they were illegally appointed by the then District Education Officer. Petitioners challenged the order of termination by filing CWJC No. 2889/1994 (R) and the writ application was disposed of with a direction to the petitioners to file representation. In review petition being Civil Review No. 47 of 1995 (R) the order dated 2.8.1995 passed in CWJC No. 2889/1994 (R) was modified to the extent that the representation of the petitioners shall be disposed of in the light of order passed in CWJC No. 1846/93R. It appears that the respondents considered the representation of the petitioners and found that petitioners were illegally appointed and accordingly their services have again been terminated.

4. I have perused the judgment and order passed in CWJC No. 1846/93R, copy of which has been annexed as Annexure-6 to the writ application. In that case, the writ petitioners were appointed pursuant to the advertisement and their names were forwarded by the Employment Exchange. A Selection Committee was constituted who after taking interview of those petitioners, prepared a panel on the basis of which appointments were made. Their Lordships held in that case that when the appointment was made after due advertisement and after names were forwarded by Employment Exchange and when selection was made by the Selection Committee then appointments can not be said to be illegal. In the instant case, petitioners have stated that they were appointed after due advertisement. For better appreciation paras 5 and 6 of the writ application are quoted herein below :--

"Para 5. That the petitioner states that the respondent No. 4 (District Education Officer, Dhanbad-cum-Bokaro) for filling up the post of Clerk, peon got advertisement the same in daily news-paper.

Para 6. That the petitioners state that pursuant to the advertisement the petitioners applied for the post of clerk and peon and after the interview the petitioners were appointed as clerk as well as peon vide letter dated 12.3.1988."

4. There is no pleading that interview was conducted by the Selection Committee or the District Establishment Committee or any appointment letter was issued by the Competent Authority. The only averment is that they were appointed after advertisement. In my view therefore the case of the petitioner is not similar to that of petitioners in CWJC No. 1846/93R. The respondents therefore rightly terminated the services of the petitioners vide Order dated 16.5.1997.

5. Besides, the above, petitioners filed this writ application challenging the Order dated 16.5.1997 after about 2.1/2 years i.e., on 20.12.1999.

6. For the reasons aforesaid, I do not find any merit in this writ application which is accordingly dismissed.

7. Writ application dismissed.