

(2013) 01 JH CK 0095
In the Jharkhand High Court
Case No : LPA No. 296 of 2012

Santosh Kumar Singh

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

Date of Decision : 30-01-2013

Acts Referred:

Citation : (2013) 2 JLJR 148

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

Bench : Division Bench

Advocate : Manoj Tandon, for the Appellant; Sanjay Piprawall, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties. The appellant is aggrieved against the judgment dated 28th March, 2012 by which appellants writ petition being W.P. (S) No. 4355 of 2009 has been dismissed.

2. The petitioner was candidate in Combined Civil Services Examination conducted by the Jharkhand Public Service Commission and he successfully passed the preliminary examination and was also permitted to appear in the Mains Examination and thereafter, he was allowed to take part in the interview also. However, petitioner was found to be an ineligible candidate in view of the fact that the petitioner could not pass the Graduation before the cut-off date which was 14.12.2006 i.e. the last date for submission of the form for Mains Examination. Admittedly, petitioner's result was declared on 27.2.2007, much after the cut-off date.

3. Learned counsel for the appellant vehemently submitted that the Full Bench of this Court in the case of Md. Sajjad Ali Vs. The State of Jharkhand and Others, , while considering the similar issue, observed that the candidate whose result has not been declared but has already undergone the Teachers' Training for the purpose of appointment to the post of Teacher, was eligible candidate. Learned

counsel for the appellant also submitted that since the discretion was with the Jharkhand Public Service Commission itself to decide the eligibility of any candidate and they permitted the petitioner to appear in the Mains Examination even after knowing it well that the petitioner yet is not a candidate who has passed the graduation in view of petitioner's annexing of the certificate obtained from the college that his result has not been declared, yet he was permitted to take part in the Mains Examination and the interview. Therefore, in that situation, the Jharkhand Public Service Commission was also of the view that the petitioner was an eligible candidate.

4. Learned counsel for the Jharkhand Public Service Commission submitted that the issue decided by the Full Bench of this Court in the case of Md. Sajjad Ali (supra) is the subject matter of SLP preferred before the Hon'ble Supreme Court, therefore, the view expressed by the Full Bench even in the case of Md. Sajjad Ali is not final view. However, it is also submitted that there is a lot of difference in the facts of the case of Md. Sajjad Ali than the facts of this case. In this case, the specific requirement in the condition itself was that one should be a graduate, a passed candidate and it is not that who has appeared in the examination or who has completed the course is the eligibility criteria. In the case of Md. Sajjad Ali there was requirement of only obtaining training and that issue has been considered by the Full Bench and it has been held that obtaining training does not mean obtaining training and passing it, therefore, Md. Sajjad Ali's case cannot be applied.

5. We considered submissions of the learned counsel for the parties and perused the facts of the case as well as the law laid down by the Full Bench of this Court. It is not in dispute that the cut-off date is 14.12.2006 which was the last date for submission of application form for the Mains Examination. The condition very specifically provides that the eligible candidates will be only those persons who have passed the examination of graduation on the cut-off date i.e. the last date of submitting the application for the Mains Examination. The ratio of Md. Sajjad Ali's case has no application to the facts of the case because in this case it is not provided that one should have appeared in the examination or completed the course which can be even read in the light of the decision of the Full Bench as to mean that one who has completed the course and has not passed the examination is eligible candidate. In that situation, the judgment of Md. Sajjad Ali's case has no application to the facts of the case. The specific condition in the advertisement clearly provides that eligible candidate will be only those candidates who have passed the examination on the last date of submission of the form for Mains Examination. Therefore, we do not find any merit in this L.P.A. The L.P.A. is dismissed.