
(2006) 05 JH CK 0097
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5412 of 2005

Sarbani Bose

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 18-05-2006

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14(1), 16

Citation : (2007) 1 JCR 323

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : P.K. Sinha, Pandey Neeraj Roy and Mahua Sinha, for the Appellant;
I. Sen Choudhary, S.C.-III and Rajiv Ranjan, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—This writ petition has been preferred by the petitioner against the order, contained in Memo No. 2292 dated 9th July, 2005, issued by the District Superintendent of Education, Singhbhum West, Chaibasa, whereby and whereunder, the provisional approval of appointment of the petitioner, as was given by the State, has been cancelled.

Further prayer has been made by the petitioner to declare that the provisions of National Council for Teachers Education Act, 1993 (hereinafter to be referred as the "N.C.T.E. Act"), which came into effect since 1st July, 1995 is prospective and shall have no effect or abrogation to the accrued right of obtaining decree or diploma.

2. As the case can be disposed of on short points, it is not necessary to discuss all the facts, except the relevant one.

The petitioner is a Teacher of Ram Gopal Sen Primary Balika Vidyalaya, Chaibasa (hereinafter to be referred as the "school"), an aided private school. Prior to her appointment, she completed Teachers Training Course from one Dr. B.C. Roy College of Education, Calcutta and appeared at the Teachers Training

Examination, held on 18th January, 1992 and having passed the examination, she was granted Senior Teachers Training Certificate on 6th May, 1992.

The School, being in need of Trained Bengali Lady Teacher, issued advertisement in the newspaper on 7th September, 1993, inviting applications for the post of Matric Trained Bengali Lady Teacher. In pursuance of the said advertisement, the petitioner applied and was called for interview vide letter dated 11th November, 1993. Interview was held on 21st November, 1993 at 10.30 a.m. in which the petitioner appeared along with others. The Selection Committee having selected, the Secretary of the School issued letter of appointment dated 20th December, 1993, appointing the petitioner as Matric Trained Bengali Lady Teacher against the vacancy, occurred due to retirement of one Smt. Shobha Aikat. A copy of the same was also forwarded to the Superintendent of Education, Singhbhum West, Chaibasa, vide Memo No. 1 dated 23rd March, 1994 for its approval. The Superintendent of Education, Singhbhum West, Chaibasa, having found the appointment in order, accorded permission and approval of appointment by order dated 23rd July, 1994 with effect from 3rd January, 1994 i.e. the date, the petitioner joined the post. The petitioner was placed in the pay scale of Rs. 580-860/-, which was revised since February, 1997 and was paid salary in the scale of Rs.1200-2040/-.

3. According to the petitioner, her appointment having been made and approved with effect from 3rd January, 1994, she should have been allowed the revised scale of pay, but was actually paid pre-revised scale (old scale). The matter, as such, was brought to the notice of the authorities and the Director, Primary Education, directed the District Superintendent of Education, Singhbhum West, Chaibasa, to furnish information separately for necessary action.

4. The petitioner having not been paid salary in the revised scale of pay with effect from March, 1997, had to move before this Court in C.W.J.C.No.3433 of 2000. Having noticed the facts and circumstances, a Bench of this Court vide order dated 6th March, 2002 remitted the matter to the Director, Primary Education, Jharkhand, Ranchi, to decide the claim. It was mentioned that if Dr. B.C. Roy Education College, Calcutta, is recognized by the Government of West Bengal and similar Institution, namely, Sister Nivedita College, Calcutta, has been recognized and the teachers, trained from the said College, have been allowed the benefit by this Court, then he will do the needful relating to approval of the services of the petitioner. The respondents, thereafter, giving reference to the judgment, rendered by this Court in the case of Dilip Kumar Gupta and Others Vs. State of Jharkhand and Others, refused to grant approval and also cancelled the provisional approval, as was granted by the District Superintendent of Education letter No. 10014-16 dated 23rd July, 1994 and communicated vide Memo No. 2292 dated 9th July, 2005.

5. In the case of Dilip Kumar Gupta & analogous cases (supra) the judgment was delivered by a Division Bench of this Court on 30th March, 2005. The said case related to appointment of Trained Teachers, pursuant to an advertisement,

published by the State of Jharkhand on 28th August, 2002. Many of the candidates applied for appointment; appeared at the competitive test; declared successful but were not granted letters of appointment on the ground that the institutions from which they had obtained Teachers Training Certificates/B.Ed. Certificates are not approved by the National Council for Teachers Education. Having noticed the rival contentions and gone through the enclosures on record, the Court held as follows:

(a) "Recognized Institute" means an institution recognized or established by State government or Union government or by Statutory Bodies/Organizations, maintained and controlled by either State Government or Central Government or recognized University or affiliated by a recognized University for imparting education (training herein);

(b) After 1st July, 1995 or at best for another period of six months i.e, after 1st January, 1996 nobody, offering a course or training in Teachers Education, can run the institute without prior recognition by the N.C.T.E., there being bar to run such institute under Sub-section (I) to Section 14 of the N.C.T.E. Act. 1993;

(c) Even if a Teachers Training Institute is affiliated to a University, recognized by the University Grant Commission, no Teachers Training Examination can be held by the University whether provisional or otherwise, for the students of such Teachers Training College after 1st January, 1996, if the Institute is not recognized by the N.C.T.E., in view of Clause (b) ID SECTION 16 of the N.C.T.E. Act, 1993;

(d) A person, who has completed and obtained a Degree/Diploma/Certificate in Teachers Training Course prior to 31st January, 1996 i.e. six months after promulgation of the N.C. T.E. Act, 1993 from State Government or Union Government or by Statutory Bodies/Organizations, maintained and controlled by either State Government or Central Government or recognized University or affiliated by a recognized University for imparting Teachers Training Education, is eligible for appointment to the post of Primary Teacher, if otherwise found fit and

(e) Since 4th September. 2001 i.e, the date N.C.T.E. (Department of Qualification & Recruitment of Teachers) Regulation, 2001 came into force, no untrained person can be appointed to the post of Primary Teacher.

6. Some of the candidates had passed Teachers Training Examination from Dr. B.C. Roy College of Education, Calcutta and other similarly situated institutions. Having noticed that they have passed the examinations after promulgation of N.C.T.E. Act and those institutions were not recognized by the National Council of Teachers Education, the Court held that the persons, obtained Training Certificates from such nine institutions, situated at Calcutta, can not be granted the relief, as sought for by them.

7. In the present case, the respondents have taken similar plea that the petitioner has passed Teachers Training Examination from Dr. B.C. Roy College of

Education, Calcutta and such institution having not been recognized by the National Council for Teachers Education, as held by the Division Bench in the case of Dilip Kumar Gupta and Ors. (supra), the provisional approval, granted in favour of the petitioner, has been cancelled.

8. It is a settled law that a judgment cannot be given effect from retrospective date, ill the Court so directs. Any action taken prior to the judgment cannot be annulled automatically, giving reference to such judgment, if the Court has not decided such individual case. The petitioner having passed Teachers Training Course in the year, 1992 and having been appointed by the School on 20th December, 1993, the judgment rendered by this Court on 30th March, 2005 in the case of Dilip Kumar Gupta and Ors. (supra) cannot be made applicable in the case of this petitioner.

9. It has been held by the Court that the N.C.T.E. Act, 1993 came into force since 1st July, 1995 and after six months thereafter i.e. after 1st January, 1996 nobody, offering a course or training in teachers education, can run the institute without prior recognition by the National Council for Teachers Education. The petitioner having passed the. examination in the year, 1992 itself, the question of recognition of Dr. B.C. Roy College of Education, Calcutta, by the National Council of Teachers Education at that relevant point of time does not arise. The Director, Primary Education, Jharkhand, Ranchi, has failed to appreciate the aforesaid facts and simply giving reference to the High Court's decision, rendered in the case of Dilip Kumar Gupta and Ors. (supra), cancelled the provisional approval, as was given by the District Superintendent of Education, Singhbhum West, Chaibasa.

10. For the reasons aforesaid, the impugned order, contained in Memo No. 2292 dated 9th July, 2005, issued at the instance of the Director, Primary Education, Jharkhand, Ranchi under the signature of the District Superintendent of Education, Singhbhum West, Chaibasa cannot be upheld and the same is according set aside. The petitioner stands reinstated with all consequential benefits, including the arrears of wages, to be paid by the respondents, within two months from the date of receipt/production of a copy of this order.

11. The writ petition is, thus, allowed with the aforesaid observations and directions, but without any order as to costs.