

(2009) 12 JH CK 0075
In the Jharkhand High Court

Satya Narain Sahu

APPELLANT

Vs

The State of Jharkhand, Jharkhand Public Service
Commission, District Superintendent of Education and Region
Education Officer

RESPONDENT

Date of Decision : 11-12-2009

Acts Referred:

Citation : (2009) 12 JH CK 0075

Hon'ble Judges : D.G.R. Patnaik, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.G.R. Patnaik, J.—Heard counsel for the parties.

2. The petitioner in this writ application, has prayed for quashing the order dated 12.7.2004 passed by the Region Education Officer, Bermo (Respondent No. 4), whereby the petitioner's Joining Report has been rejected. A corresponding prayer has been made to direct the respondents to accept the Joining Report of the petitioner and allow him to continue in service as a Trained Teacher in Primary School and to pay him salary and other allowances from the date of submitting his Joining Report i.e. from 10.6.2004.

3. As informed by the learned Counsel for the petitioner, petitioner's joining has been refused on the ground that his age was beyond the maximum age fixed for appointment.

4. Facts of the petitioner's case in brief is as follows:

In response to an advertisement published by the Jharkhand Public Service Commission (JPSC) inviting applications from eligible candidates for their appointment to the post of Primary School Teacher, the petitioner being a B.Sc Trained, had submitted his application under the OBC category on 11.9.2002. He was allotted an admit card and was allowed to appear at the examination conducted by the JPSC. The results of the written test was published on 14th

November 2003 in which he was declared selected in the general category.

Thereafter, the petitioner received a letter of appointment on 4.6.2004 issued by the Superintendent of Education-cum-Sub Divisional Education Officer, Bokaro to join the post of Primary School Teacher at Utkramit Middle School, Chirudih, Bermo

5. In compliance with the direction contained in the appointment letter, the petitioner submitted his Joining Report to the Region Education Officer, Bermo (Respondent No. 4) on 10.6.2004.

6. His joining was however not accepted and he was informed that in view of the fact that he had crossed the upper age limit, his case was kept under consideration and informed that he would be communicated later regarding the decision taken. The petitioner was informed that the maximum age for appointment in the general category, even after relaxation, was 40 years as on 1.7.2002 and in the OBC category, at 42 years. The petitioner was further informed that the caste certificate as OBC issued by the authorities of the State of Bihar, cannot be considered in the State of Jharkhand for treating him in the OBC category and for giving him the benefit of upper age limit of 42 years.

7. The grievance of the petitioner is that while he has been denied the benefit of joining his service on the ground that he cannot claim benefit of OBC category, some other candidates including one Md. Shamsul Arfin, Rajani Kant Prasad and Bhushan Mahto, who were initially found successful in the general category but their candidature was considered under the OBC category and were given the benefit of age relaxation of 42 years and were allowed to join duty as Primary School Teacher.

8. Learned Counsel for the petitioner would refer to and rely upon a judgment of a Single Bench of this court in the case of Md. Muslim v. The State of Jharkhand and Ors. passed in W.P.(S) No. 2423 of 2004. The petitioner has demanded that the same benefit of age relaxation should be extended to him by treating his candidature in the OBC category on the basis of the certificate produced by him and also on the basis of the application which he had submitted under the OBC category.

9. A counter-affidavit has been filed on behalf of the respondents. Admitting the fact that though the petitioner had submitted his application under the OBC category but in the results of the written examination as declared by the JPSC, he was declared successful in the general category. The explanation offered by the respondent is that the case of the petitioner along with other candidates, was forwarded to the Establishment Committee which had observed that according to the petitioner's School Certificate, his date of birth was 22.11.1960 and he had thereby crossed the upper age limit of 40 years on the prescribed date of 1.7.2002, as per the recruitment advertisement issued by the JPSC. Since in the general category, the upper age limit was fixed at 40 years and the petitioner had crossed that age on the prescribed date, the petitioner's candidature could

not be accepted.

As regards the petitioner's claim that he belongs to the OBC category and a certificate in this regard was also submitted by him along with his original application under the said category and therefore, he is entitled to the benefit of age relaxation under the OBC category, the counter stand of the respondents is that the caste certificate produced by the petitioner was issued by the authorities of the State of Bihar and since such certificate was not acceptable unless the petitioner submits a certificate issued by the competent authority of the State of Jharkhand, the petitioner cannot demand for treating his candidature under the reserved OBC category and claim relaxation of upper age limit. As regards the petitioner's claim that other candidates similarly situated like him, have been granted appointment and he has been denied the benefit, learned Counsel explains that on scrutiny of the documents furnished by the said candidates, the concerned authority of the respondents was satisfied that the documents produced by them was acceptable and therefore, they were given appointments.

10. From the rival submissions, as it appears, petitioner's claim is based on the caste certificate produced by him which was admittedly issued by the concerned authorities in the State of Bihar, and on the ground that he had applied for under the aforesaid reserved category. Admittedly, the petitioner was declared selected in the results of the written examination, but his candidature was treated in the general category.

11. The question as to whether a candidate belonging to the reserved category of one State can claim the benefit of reservation in the matter of appointment in service of another State, has been settled by the Division Bench of this court in its judgment passed in a batch of cases including W.P.(S) No. 578 of 2004 and other analogous cases. Referring in this context to the various judgments of the Supreme Court including the case of U.P. Public Service Commission, Allahabad Vs. Sanjay Kumar Singh, and the earlier judgment of the Apex Court in the case of Action Committee on Issue of Caste Certificates to Scheduled Castes and Scheduled Tribes in the Action Committee on Issue of Caste Certificate to scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another Vs. Union of India (UOI) and Another, and another judgment in the case of M.C.D. Vs. Veena and Others, , the Division Bench has held that "those candidates who have enclosed certificates issued by the District Authorities now falling within the State of Bihar, or the certificate issued by the District Authorities of Uttar Pradesh and another State, cannot claim reservation for appointment in the service of the State of Jharkhand". The Division Bench has further held that "such candidates are not entitled to claim appointment against the reserved post in the State of Jharkhand".

12. The claim of the petitioner in the present case for treating him in the reserved OBC category, cannot therefore be allowed in view of the fact that he has not produced any certificate issued by the competent authority of the State of Jharkhand to certify that the petitioner belongs to the reserved category

declared in the State of Jharkhand. The petitioner's candidature having not been treated in the reserved category and he having crossed the upper age limit on the prescribed date, cannot therefore claim any benefit of upper age relaxation to the extent applied for candidates under the reserved category.

13. In the light of the above discussions and the facts and circumstances of the case, I do not find any merit in this application. Accordingly, this application is dismissed.