
(2008) 07 JH CK 0149
In the Jharkhand High Court

Satya Prakash Choudhary

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 23-07-2008

Acts Referred:

Bihar Non-Government Secondary Schools (Taking Over of Management and Control) Act, 1981 — Section 3(3)

Citation : (2008) 4 JCR 28

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Judgement

R.R. Prasad, J.—Heard learned Counsel appearing for the petitioner and learned Counsel appearing for the respondents.

2. Learned Counsel appearing for the petitioner submits that the petitioner was working in Baijnath Das Kalyan Uchch Vidyalaya, Chuliha, Deoghar since 1983 and at the time of taking over the said school in terms of Section 3 (3) of the Bihar Non-Government Secondary School (Taking over Management & Control Act), 1981, the names of trained teachers were recommended for being appointed as teachers in the said school and the petitioner was not appointed though he was having requisite qualification for being appointed as a teacher and, therefore, the petitioner had to file writ application before Hon"ble High Court, Patna vide C.W.J.C. No. 5299 of 1983 and the Court directed that if the petitioner is found qualified on the date of inspection by the Special Board and if his rank is amongst first nine qualified teachers, then his case may be considered and thereupon the Director, Secondary Education, Government of Jharkhand, Ranchi, keeping in view the order passed by Hon"ble High Court, Patna, passed order treating the petitioner as a teacher of Baijnath Das Kalyan Uchch Vidyalaya, Chuliha, Deoghar from the date of taking over of the said school i.e. 5.7.1983 and pursuant to that, the petitioner did join that school on 14.5.1988 and since then he has been working to the satisfaction of the Authorities.

3. Learned Counsel further submits that in course of time, when the petitioner

became entitled to have first time bound promotion w.e.f. 5.7.1995, it was not given to the petitioner with effect from that day though first time bound promotions were given to other teachers w.e.f. 5.7.1995, who were working in the school and whose services were also reckoned with effect from 5.7.1983, rather the first time bound promotion was given to the petitioner w.e.f. 13.5.2000 and, therefore, the petitioner did represent the matter before the Director, Secondary Education, Government of Jharkhand, Ranchi through proper channel but when it was not decided, the petitioner has moved to this Court making prayer that his services be reckoned from the date of taking over of the school i.e. from 5.7.1983 and also for grant of notional annual increments.

4. Learned Counsel in course of his arguments submits that the petitioner has not been asking for any back wages which would be accrued on account of grant of first time bound promotion w.e.f. 5.7.1995!).

5. As against this, learned Counsel for the respondents submits that the petitioner had never been working in the said school from 5.7.1983, rather he did join the said school on 14.5.1988 and, therefore, the period of time bound promotion can never be reckoned with effect from 5.7.1983 and only those teachers who were working have been given time bound promotions w.e.f. 5.7.1995 reckoning their services from 5.7.1983. It was also submitted that the petitioner during that period i.e. from 5.7.1983 to 1988 had been working in other government school and, therefore, the petitioner cannot be given double benefit and under these situations, this writ application is fit to be dismissed.

6. Upon it, learned Counsel for the petitioner submits that the petitioner has never been asking for any monetary benefit, rather his prayer is confined only to the effect that the period of time bound promotion be reckoned with effect from 5.7.1995, as it was due to the fault on the part of the Authority, the petitioner could not be appointed on 5.7.1983 and, therefore, prayer of the petitioner cannot be denied on the grounds which have been taken on behalf of the respondents.

7. In view of the submissions made by learned Counsel for the parties, I do find substance made on behalf of the petitioner. It be stated that the petitioner when was not appointed on the post of teacher in Baijnath Das Kalyan Uchch Vidyalaya, Chuliha, Deoghar though he was having requisite qualification, he did approach to Hon'ble High Court Patna vide C.W.J.C. No. 5299 of 1983 and, therefore, the Court did ask the Authority to consider the case of the petitioner if he is found to be qualified on the date of inspection and, accordingly, respondent No. 3 passed an order as contained in Annexure-5 holding explicitly that the date of the services of the petitioner in the aforesaid school would be reckoned with effect from the date of taking over of the school i.e. on 5.7.1983 but in spite of that, the said date has never been taken into account for the purpose of giving time bound promotion, rather the date 14.5.1988 has been taken into account, as it is said that the petitioner did join school on that date but the petitioner did join the said school on that date due to fault of the Authority, as had he been

appointed along with other five teachers, then his services would certainly have been reckoned from the date of taking over of the school and, therefore, the petitioner cannot be allowed to be suffered on that account.

8. Under the situation, this application is disposed of with a direction to the petitioner to file a fresh representation before the Director, Secondary Education, Government of Jharkhand, Ranchi (respondent No. 2) to represent the matter within two weeks from today and the Director will be taking decision in the matter within three months from the date of filing of the representation keeping in view the order passed vide Annexure-5 wherein, the services of the petitioner have been reckoned with the date of taking over of the said school i.e. from 5.7.1983.

9. With this observation and direction, this application stands disposed of.