

(2013) 05 JH CK 0051

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5866 of 2005

Seema Kumari

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-05-2013

Acts Referred:

Citation : (2013) 05 JH CK 0051

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Srestha Gautam and Shailendra Kr. Tiwari, for the Appellant; Sanjay Piprawall, Mahadeo Thakur and Kunal Kr. Sinha, for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. The grievance of the present petitioner is that despite being declared successful for appointment as Primary Trained Teacher in the district of West Singhbhum under the result published by Jharkhand Public Service Commission pursuant to the examination conducted in the year 2002-03 for appointment of Primary Trained Teacher, the petitioner has been refused appointment as she did not possess the eligibility criteria of having B.Ed. qualification on the last date of making application as per the advertisement.

2. Learned counsel for the petitioner submits that the similar issues were under consideration before the Full Bench of this Court in the case of Md. Sajjad Ali Vs. The State of Jharkhand and Others, . It is submitted that the relevant rules i.e. Jharkhand Primary School Teachers" Appointment Rules, 2002 were subject matter of scrutiny by the Full Bench of this Court as similarly situated persons, who had appeared in B.Ed. examination, but whose certificates were not issued on last date of application and who had completed Teacher Training Examination, had been denied appointment or those, who had completed Training, but their B. Ed. Examination were not held and certificates were also not issued, had been denied the appointment on the interpretation of Rule 2(Kha) of the Jharkhand Primary Teachers" Appointment Rules, 2002. It is submitted that in such

circumstances, the meaning of the expression "obtained" within two years Teacher Training or B.Ed./Dip.-in-Ed./Dip.-in-teach or C.P.Ed. or D.P.P.Ed was interpreted by the Full Bench of this court, 5866 which was held as under:-

24. From the reading of the said Rule as a whole, it is unequivocally clear that while a person who has obtained training in the course described in Rule 2(Kha) is eligible for the purpose of applying for the post of teacher, a person cannot be appointed as a teacher unless he is trained i.e. has obtained training and passed the examination of the prescribed training course.

25. The petitioners in these case, on the date of submission of application forms, had obtained training. They had already completed their training sessions of B.Ed. Course before the date, they applied and were waiting for appearing in the final B.Ed. examination.

3. It is submitted that in the instant case, the petitioner had completed her training and as per her marks sheet issued by the Ranchi University vide Annexure-2, she was examinee for the Session 2001-02.

4. The respondents had taken a categorical stand at para-9 in their counter affidavit that the petitioner had appeared for B.Ed. examination in the month of October, 2003, while only such candidates had to be appointed, who had appeared in their training examination by the last date i.e. 30.09.2002 for submitting the application form to the JPSC. Therefore, the petitioner's claim for appointment did not come under the purview of the letter no. 1256 dated 21.05.2004.

5. Learned counsel for the respondents, however, submits that the Full Bench judgment of this Court had been assailed in SLP being Civil Appeal Nos. 3632-3634 of 2011.

6. Learned counsel for the petitioner, however, submits that there is no stay of the Full Bench Judgment of this Court and after passing of the judgment by the Full Bench of this Court, the respondents have complied with the direction passed therein and the Contempt being Contempt Case (C) No. 154 of 2009 has also been dropped. In these circumstances, the petitioner should also be entitled for similar benefit.

7. I have heard learned counsel for the parties at length and have gone through relevant materials on records. It appears that the petitioner has made out a case that she had completed training of B.Ed. course for the session 2001-02, for which, she faced the examination in October, 2003 of course after last date of submitting the application form as per the advertisement for recruitment issued by the JPSC. According to her, though she was successful in the JPSC exam but was denied appointment on the ground that she had not obtained Teachers' Training as per Rule 2(Kha) of 2002 Rules. Similar issues were under consideration before the Full Bench of this Court in the case of Md. Sajjad Ali (supra) where meaning of the expression "obtained" was interpreted. The

relevant extracts of the opinion of the Full Bench judgment has been quoted hereinabove.

8. In such circumstances, the matter is remanded to the Director, Primary Education, Government of Jharkhand, Ranchi to consider the case of the petitioner in accordance with law and in view of the law laid down by the Full Bench of this Court in the case of Md. Sajjad Ali (*supra*) and other analogous cases. In case, the petitioner is found to be similarly placed to that of the petitioner in the case decided by the Full Bench of this Court, then appropriate orders be passed in accordance with law thereafter within a period of twelve weeks from the date of receipt of a copy of this order.

9. In case, the petitioner is found to be entitled to appointment, it should, however, be made clear that it will be subject to the result of Civil Appeal Nos. 3632-3634 of 2011 pending before the Hon''ble Supreme Court of India. This writ petition is disposed of in the aforesaid terms.