
(2006) 09 JH CK 0012
In the Jharkhand High Court
Case No : LPA No. 325 of 2006

Serophina Besra

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-09-2006

Acts Referred:

Citation : (2006) 4 JCR 242

Hon'ble Judges : Dhananjay Prasad Singh, J; Amareshwar Sahay, J

Bench : Division Bench

Advocate : Harsh, Sanjay Piprawal, for the Appellant; Mahadeo Thakur, JC to GP-IV, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard Mr. Harsh, learned Counsel appearing on behalf of the appellant, Mr. Piprawal, learned Counsel for the Jharkhand Public Service Commission and Mr. Thakur, learned Counsel for the State.

2. The appellant was appointed as Primary teacher by an office order dated 8.2.2004 issued under the signature of the District Superintendent of Education, Godda, on a condition that in future if on verification it is found that the appellant has not received teachers training from recognized institution then her appointment may be cancelled and further that if any document submitted by her is found to be forged and fabricated then also her appointment would be liable to be cancelled and legal action may be taken against her.

3. After about one and half year by issue of an order dated 18.8.2005, contained in Annexure-II, the District Superintendent of Education, Godda, terminated the service of the appellant on the ground, that on verification of the certificate submitted by her it was found that the appellant had not passed the Teachers Training Course. By the said order, the appellant was also asked to refund the entire amount, which she had received by way of salary in course of her employment.

4. It appears that along with the application form the appellant had submitted a certificate issued by Ursuline Teachers Training College, Lohardago, certifying that the appellant had completed the teachers training course and was to appear in the Board examination. The principal of the said teachers training college in her affidavit filed before the writ Court had stated that on the request of the appellant mark-sheet showing marks obtained in her internal examination was issued.

5. The learned single Judge, while dismissing the writ application, filed by the appellant challenging her termination from service, has observed in his order that the Ursuline Teacher Training College, Lohardage must be vigilant and careful in future in issuing such type of certificate.

6. Since the appellant was not having the requisite qualification for being appointed as primary teacher, the learned single Judge rightly did not interfere with the order of termination of the service of the appellant issued by the District Superintendent of Education, Godda. So far as the question regarding refund of the amount received by the appellant in course of her employment by way of salary is concerned, the order of the learned single Judge is silent on that point.

7. It may be that due to the certificate submitted by the appellant, which was issued by the Ursuline Teachers Training College, Lohardaga, the authorities might have been mislead and thereby wrongly issued the appointment letter to the appellant though she was not having the requisite qualification for being appointed as primary teacher. But it appears that the certificate submitted by the appellant was neither fake nor fabricated, as was admitted by the Principal of Ursuline Teachers Training College, Lohardaga in her affidavit filed before the writ Court. It may be that the certificate was issued in such a manner that it may be that the certificate was issued in such a manner that it gave impression that the appellant had passed teachers training course. There is no dispute of the fact that after being appointed the appellant worked for about one and half year and for the said period she received her salary. Therefore, the appellant received the salary for that period only, for which she worked.

8. In our view, that part of the order of the District Superintendent of Education. Godda as contained in Annexure-II, whereby direction for refund of the amount received by her by way of salary for the period she worked as primary teacher, cannot be said to be justiciable.

9. Accordingly, said part of the order dated 18.8.2005, contained in Annexure-II, issued under the signature of the District Superintendent of Education, Godda whereby the appellant has been directed to deposit/refund the entire amount received by her by way of salary, is hereby quashed and the appellant would not be liable to refund the aforesaid amount, which she received by way of salary in course of her employment.

10. With these observations and directions, this appeal is dismissed.