
(2004) 04 JH CK 0045

In the Jharkhand High Court

Case No : C.W.J.C. No's. 2182 of 1996 and 647 of 1998 (R)

Sharat Chandra Singh Deo and Another and Dr. Kalyani
Prasad Mishra

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 21-04-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 2 BLJR 1357 : (2004) 3 JCR 204

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : A.R. Sarangi, for the Appellant; Pradeep Modi, G.P.I., for the Respondent

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—The two writ applications arise out of similar fact and involve identical question, accordingly, both the writ applications were heard together and are being disposed of by this common judgment.

2. The facts of C.W.J.C. No. 2182 of 1996 (R) are that the petitioners, Graduates in Ayurvedic Medicine and Surgery applied for the post of Vaidya (Ayurvedic Doctors) pursuant to the advertisement published by Zila Parishad, Singhbhum, Chaibasa for filling up the five posts of Vaidyas (Ayurvedic Doctors) in the pay-scale of Rs. 730-880/-. They appeared in Interview on 01.12.1982 and thereafter they were appointed as Vaidyas on probation for two years by issue of appointment letter dated 25.03.1986 (Annexure-5). The petitioners joined the service on 31.03.1986 which was duly accepted by the Secretary, Zila Parishad. The petitioner No. 1 was posted as Vaidya (Ayurvedic Doctor) in Talbhanga Ayurvedic Hospital, whereas, the petitioner No. 2 was posted at Kuida Ayurvedic Hospital by issue of Annexure-7. They received their salary for the months of April and May, 1986 from Zila Parishad, Singhbhum, Chaibasa but thereafter no payment was made to them towards their salary.

3. Similarly the petitioner in C.W.J.C. No. 647 of 1998 (R) was appointed as Vaidya (Ayurvedic Medical Officer) and, as such, posted in Raidih Ayurvedic Dispensary.

4. The grievance of the petitioners is that though they were working as Full Time Ayurvedic Medical Officers in the State Ayurvedic Hospitals since last 10 years, but neither they have been regularised nor they have been paid their salary from the month of June, 1986 onwards in spite of their several letters and representations. It is submitted that the State took over the Ayurvedic Hospitals under the control of Zila Parishads on 06.02.1986 with effect from 01.12.1985.

5. It is further submitted that pursuant to the order of this Court, the petitioners were paid their salary up to October, 1997, but from November, 1997 onwards their salaries have not been issued and subsequently by issue of Annexure-10 dated 21.10.1987, the services of the petitioners were directed to be returned to Zila Parishad.

6. On the other hand, the case of the State-Respondent is that the State Government took over all the Ayurvedic, Homoeopathic and Unani Medical dispensaries run by Zila Parishad, Singhbhum by Health Department Notification dated 06.02.1986 with effect from 01.12.1985 and, therefore, the Zila Parishad, Singhbhum West was not competent to appoint the petitioners after the aforesaid taking over by the State Government.. The petitioners were appointed by Zila Parishad on 25.03.1986 i.e. after the Notification of taking over and, therefore, their appointment, if any made by Zila Parishad cannot be said to be legal and valid.

7. It is further submitted by the learned counsel for the State that since the petitioners were neither appointed by the Health Department nor they became the officers of the Health Department on account of the taking over of all the aforesaid dispensaries and, as such, their claim for regularisation cannot and does not arise. It is further submitted that pursuant to the interim order passed by this Court, the petitioners have already been paid their salary up to the period they worked and thereafter a direction has been made to return their services to the Zila Parishad.

8. Having heard the parties, I am of the opinion that since, the appointments of the petitioners were made by the Zila Parishad, after the Notification dated 06.02.1986 issued by the State Government for taking over of all the Ayurvedic, Homoeopathic and Unani Medical dispensaries and, therefore, the appointment of the petitioners made by Zila Parishad cannot be said to be legal and valid and, therefore, the petitioners claim for regularisation cannot be allowed.

9. Accordingly, I find no merit in these writ applications and, as such, they are dismissed.