
(2011) 01 JH CK 0060
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5280 of 2010

Shashi Rekha Minz

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-01-2011

Acts Referred:

Citation : (2011) 1 JCR 553

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

N.N. Tiwari, J.—In this batch of cases the Petitioners are aggrieved by the cancellation of their engagement as Para Medical Staffs on contract basis. The Petitioners have also sought direction on the Respondents to pay them the agreed consolidated remuneration for the period they worked and also for the period they were illegally forced not to work.

2. The State of Jharkhand had invited applications for appointment of Para Medical Staffs such as: Staff Nurse, Lab. Technician, Pharmacist/Compounder. Refrigerator Mechanic, Radiographer (X. Ray Technician) against 1263 vacant sanctioned posts in 24 districts of Jharkhand including Ranchi District under the Jharkhand National Rural Health Mission.

3. The Petitioners, who had the required eligibility, had applied for their appointments on the said posts.

4. A Screening Committee was constituted for the said purpose. The Committee after taking into consideration their eligibility and other aspects, selected the Petitioners. They were, accordingly, appointed on different posts.

5. Subsequently, a letter was issued from the Office of the Civil Surgeon-cum-Chief Medical Officer, Ranchi by Memo No. 2143 dated 3.8.2010 directing them to produce their certificates for scrutiny and verification including the certificates to

show that the Institutes from where they have taken their certificates/Degrees are recognized by A.I.C.T.E./U.G.C.

6. The Petitioners had thereafter and produced their certificates for verification which were found in order.

7. However, suddenly they received a letter dated 10.9.2010 with different Memo Nos. communicating to them that their appointments have been cancelled by the decision of the Screening Committee for not producing the documents to show that the Institutes which granted the certificates to them, are recognized by A.I.C.T.E./U.G.C.

8. According to the Petitioners, no notice or opportunity of hearing was given to them before cancelling their appointments on the said ground. According to them, the said cancellation is wholly arbitrary and violative of the principles of natural justice.

9. A counter-affidavit has been filed by the Respondents on behalf of the Civil Surgeon-cum-Chief Medical Officer, Ranchi. It has been stated, inter alia, that the Petitioners were earlier given opportunity to produce their certificates by letter dated 3.8.2010, but they failed to produce document to show that the Institutes which granted the certificates to the Petitioners are recognized by A.I.C.T.E./U.G.C. There was no arbitrariness or illegality in cancelling the appointments of the Petitioners. It has been submitted that it was one of the conditions for their appointments on contract basis that they must hold a certificate recognized by A.I.C.T.E./U.G.C.

10. However, in the counter-affidavit, the Respondent has not denied the Petitioners' contention that no notice was served and they were not given opportunity of hearing/defending, before issuing termination order. It has been rather said that after their termination, they were given opportunity to place their grievances, but the same were not found genuine.

11. I have heard learned Counsel for the parties as also learned Government Advocate representing the Respondents. At the time of hearing, it has been fairly admitted on behalf of the Respondents that no notice or opportunity of hearing was given to the Petitioners before issuing the impugned orders cancelling their appointments.

12. It has been, however, stated that the Petitioners were earlier asked to produce the documents to show that the Institutes which granted the certificates to them are recognized by A.I.C.T.E./U.G.C. They were thus aware that they had to produce the documents to establish the same. The Petitioners were, thus, not taken by surprise by the impugned order of cancellation of their appointments and as such there was no violation of the rules of natural justice.

13. This Court is not convinced with the said stand and submissions of learned Counsel for the Respondents.

14. It is well established that the observance/compliance of the principles of natural justice must be clear and evident from the order by which the persons' right is taken away or infringed upon. It cannot be inferred by the surrounding circumstances or by any supplement.

15. In view of the aforesaid, I find that the impugned order does not suggest or speak about the compliance/observance of the principles of natural justice. There is no material to show that any notice was served on the Petitioners informing them that failure to produce the required document/certificate by a certain date would entail cancellation of their appointment.

16. It has been submitted on behalf of the Petitioners that they were not aware that their appointments shall be cancelled on failure to submit any particular document by a specified date.

17. According to the Petitioners, they had produced the required documents and they were not informed as to which document was lacking.

18. On perusal of the impugned order, I find that the Petitioners' appointments have been cancelled for non-production of a document in support of recognition of their certificates by the AICT/UGC, but no specific detail of the document which was required to be produced, has been given or indicated even in the impugned order. It does not appear from the impugned order as to which particular document was required by the Respondents. The Civil Surgeon-cum-Chief Medical Officer, Ranchi, who is present in the Court in person, has not denied that the Petitioners were given contractual appointments on their respective posts after observing the prescribed procedure and on the basis of their eligibility. Once they were given appointments, they acquired a valuable right and the same cannot be casually cancelled or denied.

19. Further, it has not been denied by the said Respondent that after their respective appointments, the Petitioners had worked for several months, but their remuneration was not paid even for that period.

20. For the reasons aforementioned, the impugned orders of termination of the Petitioners' appointments are held to be illegal and violative of the principles of natural justice and the same are, hereby, quashed. These writ petitions are allowed.

21. The Petitioners are held to be entitled to get their agreed consolidated remuneration from the date of their appointments i.e. for the period they worked and also for the period they were deprived of their right to work and attend duties by the impugned illegal order(s). The Respondents are directed to pay the arrears of remuneration within a period of four weeks.

22. It is made clear that the Respondents are at liberty to proceed in accordance with law and by observing the principles of natural justice.