

(2017) 11 JH CK 0015
In the Jharkhand High Court
Case No : 961 of 2009

Shyamali Mandal

APPELLANT

Vs

The State of Bihar now Jharkhand & Anr

RESPONDENT

Date of Decision : 13-11-2017

Acts Referred:

Citation : (2017) 11 JH CK 0015

Hon'ble Judges : Pramath Patnaik

Bench : SINGLE BENCH

Advocate : M.M. Pan, ?Atanu Banerjee, Kaustav Panda

Final Decision : Allowed

Judgement

1. In the accompanied writ application, the petitioner has inter alia prayed for quashing order dated 13.01.2009 passed by respondent no. 2 whereby petitioner's claim for regularizing his services as Head Master at least on completion of seven years of service from the date of reorganization/taken over of the school i.e 31.12.1988 has been rejected.

2. The facts, in brief, is that the petitioner having possessed the requisite qualification and experience was appointed as Headmaster in the year 1975 in Ram Mandir B.P.J High School, Deoghar. It has further been averred that the Secretary, Bihar Secondary Education Board, Patna accorded permission for establishment of the school, namely, Ram Mandir B.P.J High School, Deoghar vide memo dated 11.10.1976. Accordingly, a

Special Board was constituted, who upon inspection of the school in question gave recommendation for recognition of the school by the State Government. Pursuant thereto, the Special Secretary, Department of Education, Bihar vide letter dated 31.12.1981 gave approval for eight teachers, one clerk and two peons, but, the petitioner was made only In-Charge Head master. Being aggrieved the petitioner approached Director, Secondary Education, Bihar and also communicated order passed by Hon"ble Patna High Court in C.W.J.C No. 6291 of 1985 dated 09.03.1999 whereby the Hon"ble Court directed the respondent-authority to appoint the petitioner as regular Headmaster after completion of seven years from the date of taking over of the school i.e. 31.12.1981 in view of order passed in A.K. Pradhan Vs. State of Bihar & Ors as reported in (1998) 2 SCC 411.

3. Learned counsel for the petitioner submitted that after creation of State of Jharkhand, the petitioner approached this Hon"ble Court by filing W.P (S) No. 4052 of 2004, which was disposed of vide order dated 07.05.2008 setting aside the order passed by respondent-authority and a direction was issued to pass a fresh order keeping in view the orders of the High Court and Supreme Court, but, the respondents-authority misinterpreting the judgments mentioned above, passed the impugned order dated 13.01.2009 rejecting the claim of the petitioner for regularizing his services as Head Master from the date of reorganization/taken over of the school i.e 31.12.1981. Learned counsel for the petitioner further submitted that other similarly situated person, namely, Puran Chandra Mahto has been given such benefit but the petitioner has been subjected to hostile discrimination. In support of his case, learned counsel for the petitioner referred to a decision rendered in the case of

Mahesh Thakur Vs. State of Bihar & Ors as reported in 2004(1)JCR 502 (Jhr).

4. Learned counsel for the respondents submitted that the petitioner cannot claim benefit of letter dated 20.11.1981 as at the time of taking over of school on 31.12.1981, he was Assistant Teacher and in the notification of taking over of school, it was clearly mentioned that he will act as In-Charge Head Master till permanent headmaster is appointed, which fact is also reflected from the service book of the petitioner that at the time of taking over of school, he was not a full-fledged Headmaster. It has further been submitted that the authority in compliance of the order dated 07.05.2008 passed in W.P. (S) 4052 of 2004, considered all aspects of the matter and passed the impugned order, which never warrants interference by this Court.

5. From perusal of impugned order dated 13.01.2009, it appears that the much emphasis has been laid by the respondents-authority on the fact that the school itself was established in the year 1976 whereas the petitioner claims his appointment on 14.12.1975 and at the time of taking over of school, the petitioner was Assistant Teacher and was made only In-charge Headmaster and further petitioner failed to show the attendance register from the date of appointment till the date of taking over of the school and did not give proper recognition of the laws laid down by the Hon''ble Apex Court in A.K. Pradhan (Supra). Furthermore, the respondents are silent on question of discrimination, as the petitioner has claimed parity with one Puran Chandra Mahto. From perusal of record, it appears that for almost self-same relief, it is the third round of litigation.

6. For the reasons aforesaid, the impugned order dated 13.01.2009 is quashed and set aside and respondents are directed

to regularize the services of the petitioner as Headmaster on completion of seven years from the date of taking over of school i.e. 31.12.1981 and extend all consequential benefits, for which, he is entitled to within a period of four months from the date of receipt/production of copy of this order.

7. With the aforesaid observations and directions, the writ petition stands allowed.