

**(2013) 06 JH CK 0010**

**In the Jharkhand High Court**

**Case No :** Writ Petition (S) No. 2567 of 2012 and I.A. No's. 2132, 2356 and 3059 of 2013

Smt. Asma Azfar

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 17-06-2013

**Acts Referred:**

**Citation :** (2013) 3 JLJR 293

**Hon'ble Judges :** Narendra Nath Tiwari, J

**Bench :** Single Bench

**Advocate :** B.K. Pandey, for the Appellant;

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**Judgement**

Narendra Nath Tiwari, J.—In I.A. No. 3059 of 2013, the petitioner has prayed for disposal of W.P.(S) No. 2567 of 2012 in the light of the decision of the Full Bench of the Patna High Court in Project Uchchavidyalaya Siksha, Etc. Etc. Vs. State and Others Etc. Etc. as also in the light of the order of this Court in Sukhdeo Gope Vrs. State of Jharkhand & Ors. passed in W.P. (S) No. 5161 of 2009. Learned counsel for the petitioner submitted that the petitioner's case is squarely covered by the aforesaid decisions and the writ petition can be disposed of in view of the same.

2. Learned J.C. to Sr. S.C.I. appearing on behalf of the respondents, has not disputed the said contention and submitted that the writ petition can be disposed of in the light of the aforesaid decisions.

3. In the writ petition, the petitioner has prayed for a direction on the respondents to recognize/regularize the services of the petitioner on the post of Assistant Teacher in Urdu subject of Project Girls' High School, Gopi Kandar, Dumka from the date of appointment or w.e.f. 25.01.2000 and to pay salary with effect from the said date with all consequential benefits.

4. It has been stated that the petitioner is entitled for regularization of his service on the post of Assistant Teacher in Urdu subject of Project Girls' High

School, Gopi Kandar, Dumka in the light of the Government letter No. 142 dated 4.2.1989 read with Government letter No. 56 dated 25.01.2000 and in view of the decision of the Full Bench rendered in Project Uchcha Vidyalaya Shikshak Sangh (supra) and in the light of the order dated 22.02.2012 passed in W.P.(S) No. 5161 of 2009.

5. It has been stated that the petitioner was appointed as untrained teacher in Urdu subject of the said School w.e.f. 01.04.1986 by the Managing Committee. The petitioner possessed the requisite qualification for appointment to the post of Teacher. He is a post graduate in Urdu subject and had completed B.Ed. examination in 2001 from Magadh University, Bihar.

6. The Supreme Court while hearing similar cases, had appointed Three Men Committee to examine the Schools and the Teachers for the purpose of regularization. Though the petitioner was appointed by Managing Committee and has been continuously working and possessing all qualification for appointment, the petitioner's name was not recommended for regularization of his service on the ground that he had enhanced qualification after his appointment. It has been submitted that similar question fell for consideration before the Full Bench. Having considered the relevant aspect, the Full Bench held that the relevant date of consideration of the teacher's eligibility and the qualification shall be the date on which the report was submitted by the Screening Committee.

7. It has been submitted that the date of submission of report of Screening Committee is 30th September, 2007, whereas the petitioner had obtained B.Ed. degree in the year 2001 prior to the report submitted by the Screening Committee. In view thereof, the petitioner is well qualified and eligible for regularization of his service, but his claim was refused by the respondents. The refusal of recommendation of petitioner's name by the Three Men Committee is, thus, arbitrary and illegal and is liable to be quashed and the direction be issued to the respondents to pass same order, which has been passed in other identically situated persons.

8. Same view has been taken by this Court in the case of Sukhdeo Gope (supra).

9. Though the respondents have filed counter affidavit opposing the writ petition, there is no denial of the order passed in the cases of similarly situated persons in view of the decision of the Full Bench and the order of this Court in Sukhdeo Gope (supra).

10. Considering the above, I find that this case is squarely by covered with the decision of the Full Bench in Project Uchcha Vidyalaya Shikshak Sangh (supra) as also the decision of this Court in Sukhdeo Gope (supra). Accordingly, the writ petition as well as I.A. Nos. 2132 of 2013, 2356 of 2013 and 3059 of 2013 are disposed of in the light of the aforesaid decisions directing the respondents to recall the order and entry, as contained in Annexure-B so far it relates to the petitioner and pass order of regularization of the petitioner's service in view of the aforesaid decisions and to pay salary with all consequential benefits to the

petitioner, within six weeks from the date of receipt/production of a copy of this order.