
(2015) 04 JH CK 0005

In the Jharkhand High Court

Case No : L.P.A. Nos. 142 of 2014, 226 of 2013 and I.A. Nos. 1996, 473 of 2014

State of Jharkhand

APPELLANT

Vs

Ashok Kumar Mahto and Others

RESPONDENT

Date of Decision : 29-04-2015

Acts Referred:

Citation : (2015) 2 AJR 862 : (2015) 2 JLJR 552

Hon'ble Judges : Dhirubhai Naranbhai Patel, J; Ratnaker Bhengra, J

Bench : Division Bench

Advocate : Rajesh Kumar, G.P. V., for the Appellant; Bhanu Kumar, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Dhirubhai Naranbhai Patel, J.

L.P.A. No. 226 of 2013.

1. This Letters Patent Appeal has been preferred against the judgment and order delivered by the learned single Judge in W.P. (S) No. 5134 of 2001 dated 18th April, 2013, whereby, the petition preferred by the respondents was allowed and the order dated 26th September, 2000 was quashed and set aside. Against this order the original respondents have preferred this Letters Patent Appeal. Learned counsel appearing for the appellants submitted that looking to the appointment letters of the respondents (original petitioners), they were appointed on Matric Trained Scale and they were not appointed on B.Sc. Trained Scale, at all. The respondents were later on granted the scale of B.Sc. Trained with effect from 30th October, 1989 and, thereafter, again the decision was taken on 15th January, 1996 that the respondents are hereby given B.Sc. Trained Scale with effect from 18th April, 1988 i.e. the date on which the respondents joined the service. That was the mistake, which was committed by the State Authorities, which was brought on record later on to the effect that the respondents were never appointed on B.Sc. Trained posts. Moreover, they were never B.Sc. Trained

and, therefore, B.Sc. Trained Scale which was given wrongly, was withdrawn vide order dated 21st August, 2000. This aspect of the matter has not been properly appreciated by the learned single Judge and, hence, the judgment and order delivered by the learned single Judge in W.P. (S) No. 5134 of 2001 dated 18th April, 2013 deserves to be quashed and set aside.

2. Learned counsel appearing for the respondents (original petitioners) vehemently submitted that the respondents are absolutely qualified for the appointment upon the B.Sc. Trained posts and in fact, advertisement was also issued for B.Sc. Trained post teachers and for such type of teachers, Establishment Committee took necessary tests and, thereafter, respondents were appointed against the vacancies of B.Sc. Trained Scale posts with effect from 18th April, 1988, but, they were given Matric Trained Scale and, therefore, immediately necessary representations were made by the candidates and ultimately in the meeting dated 30th October, 1989, a decision was taken that certain candidates who are at Serial Nos. 1 to 5, 7 to 27 and 29 to 31, they were fully qualified and, therefore, they should be given B.Sc. Trained Scale with effect from the date on which the result was published by the said Committee i.e. with effect from 30th October, 1989. Again, the respondents (original petitioners) preferred representations to the Government that from very inception they were fully qualified to get B.Sc. Trained Scale and ultimately wisdom prevailed upon the Government and in the meeting dated 15th January, 1996, decision was taken by the State Government to give B.Sc. Trained Scale to the respondents (original petitioners) with effect from 18th April, 1988. In paragraph No. 7 of the memo of the writ petition, it has been stated by the original petitioners that they were fully qualified to get the B.Sc. Trained Scale and there were vacancies of the B.Sc. Trained Scale teachers and, therefore, no error has been committed by the said Committee in granting B.Sc. Trained Scale with effect from 18th April, 1988. This aspect of the matter has been correctly appreciated by the learned single Judge while allowing the writ petition preferred by the respondents bearing W.P. (S) No. 5134 of 2001 vide order dated 18th April, 2013 and rightly the order dated 26th September, 2000 has been quashed and set aside and, hence, this Letters Patent Appeal may not be entertained by this Court. Some of the original petitioners have already retired by now because they have reached the age of superannuation.

3. Having heard learned counsels for both the sides and looking to the facts and circumstances of the case, we see no reason to entertain this Letters Patent Appeal mainly for the following facts and reasons:

(i) Advertisement was issued for Matric Trained Teachers, Intermediate Trained Teachers and B.Sc. Trained as well as Untrained Teachers on 24th January, 1987, which is in fact second/revised advertisement. In pursuance of this public advertisement, the respondents (original petitioners) along with other candidates preferred applications. The Establishment Committee, at the relevant time, took tests and ultimately selected certain candidates for the posts advertised, based

upon subjective satisfaction of the Establishment Committee. The respondents (original petitioners) were few of the selected candidates.

(ii) Though they were selected for the B.Sc. Trained post and though they were fully qualified for the post of the B.Sc. Trained teachers, they were given post of Matric Trained Scale.

(iii) Because of this error, immediately within couple of months after their appointments, necessary representations were made by the respondents to the Government and because of the representation, a meeting was convened by the Government on 30th October, 1989 and ultimately a decision was taken that the candidates who are at Serial Nos. 1 to 5, 7 to 27 and 29 to 31, B.Sc. Trained Scale should be given to them with effect from 30 i.e. the date on which the decision was taken in the said meeting. Thus, one fact is admitted by the Government that Matric Trained Scale given to the respondents was wrong and another thing is also crystallized that the respondents were entitled to get B.Sc. Trained Scale. Again, representations were made by the respondents to the Government that from the very inception they were B.Sc. Trained and, therefore, from the very inception into the services, B.Sc. Trained Scale should be given to them.

(iv) Because of this representations, again a meeting was convened by the Government on 15th January, 1996 and the decision was taken after due deliberations that the respondents should be given B.Sc. Trained Scale with effect from 18 April, 1998, but, monetary benefits were given to the respondents (original petitioners) with effect from 1st March, 1989.

(v) Thus though the respondents were entitled to get B.Sc. Trained Scale from the very inception into the services, they were given B.Sc. Trained Scale with effect from 1st March, 1989.

(vi) Thereafter, B.Sc. Trained Scale was withdrawn by the Government with effect from 21st August, 2000, without any justifiable reasons. The reasons given in withdrawal order dated 21st August, 2000 are mixture of several irrelevant reasons and that too without any basis of facts, e.g. one of the reasons given for withdrawal of the B.Sc. Trained Scale in the order dated 21st August, 2000 that there is violation of roster points. When we asked question to the learned counsel for the appellants that how there is violation of roster, he is unable to point out anything. Similarly, another reason given for withdrawal of the B. Sc Trained Scale is violation of reservation. When we asked question to the learned counsel for the appellants that how there is violation of reservation, he is unable to point out any factual aspect. Thus without any factual basis, few legal words have been added in the withdrawal of B.Sc. Trained Scale order, which has got no value in the eye of law. Bare assertion made in the order dated 21st August, 2000 that some illegality is committed, some violation of reservation, some violation of roster points etc. are useless because there is no basic facts, at all, with the Government. Who violates what? Nothing is pointed out in the order

dated 21st August, 2000 and, therefore, rightly the learned single Judge has quashed and set aside the order of withdrawal of the B.Sc. Trained Scale dated 21st August, 2000. The letter issued on 26th September, 2000 was nothing, but, the consequence of a wrong decision taken on 21st August, 2000 and, hence, rightly the learned single Judge has quashed and set aside the consequent letter dated 26th September, 2000. No error has been committed by the learned single Judge in quashing and setting aside the order passed by the appellants for withdrawal of the B.Sc. Trained Scale. We are in full agreement with the reasons given in paragraph Nos. 9 and 10 of the impugned order passed by the learned single Judge in W.P. (S) No. 5134 of 2001 dated 18 April, 2013.

4. In view of the aforesaid facts and reasons, there being no substance in this Letters Patent Appeal and, hence, the same is, hereby, dismissed.

5. Accordingly, I.A. No. 473 of 2014 is also dismissed, in view of dismissal of this Letters Patent Appeal.

6. Interim relief, granted earlier by this Court vide order dated 10th March, 2014, stands vacated.

L.P.A. No. 142 of 2014

7. This Letters Patent Appeal has been preferred against the judgment and order delivered by the learned single Judge in W.P.(S) No. 5404 of 2001 dated 25th April, 2013.

8. The judgment delivered by the learned single Judge is based upon the decision rendered by the learned single Judge in W.P. (S) No. 5134 of 2001 dated 18th April, 2013 and as stated hereinabove, we upheld the decision rendered by the learned single Judge in W.P.(S) No. 5134 of 2001 dated 18th April, 2013. For the very same reasons, we also upheld the decision rendered by the learned single Judge in W.P. (S) No. 5404 of 2001 dated 25th April, 2001. No error has been committed by the learned single Judge in deciding W.P.(S) No. 5404 of 2001. In view of the facts and reasons stated in L.P.A. No. 226 of 2013, this Letters Patent Appeal is, therefore, also dismissed. Accordingly, I.A. No. 1996 of 2014 is also dismissed, in view of dismissal of the Letters Patent Appeal.