
(2015) 05 JH CK 0075
In the Jharkhand High Court
Case No : WP(S) No. 4352 of 2011

Sukhdeo Mandal	Vs	APPELLANT
The State of Jharkhand and Others		RESPONDENT

Date of Decision : 21-05-2015

Acts Referred:

Citation : (2015) 3 JLJR 341

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Rupesh Singh, for the Appellant; L.C.N. Shahdeo, Advocates for the Respondent

Final Decision : Allowed

Judgement

S. Chandrashekhar, J—Aggrieved by order contained in letter dated 29.4.2011 and seeking quashing of order dated 23.6.2011, the present writ petition has been filed. The petitioner was appointed as Primary Teacher on 31.3.1973 and he superannuated from service on 30.6.2009. The District Superintendent of Education, Dumka vide letter dated 27.7.2009 directed the petitioner to submit his educational and training certificates for verification. It is stated that a complaint was made by a co-villager namely, Uma Mahto, on the basis of which, the petitioner was directed to produce the aforesaid certificates for verification. An order was issued on 23.9.2009 whereby, the District Superintendent of Education, Dumka ordered release of pension to the petitioner however, subsequently vide order dated 23.6.2011, the respondent-District Superintendent of Education, Dumka ordered recovery of gratuity amount of Rs. 4,07,831/- and for recovery of payment on account of earned leave, insurance, provident fund, arrears of 6th Pay Revision, the amount of commutation of pension etc.

2. Heard the learned counsel appearing for the parties and perused the documents on record.

3. Mr. Rupesh Singh, the learned counsel appearing for the petitioner submits that at the time of appointment, the petitioner was required to submit his certificates, which were duly verified by the authorities and the petitioner was taken in service. Subsequently also, an enquiry was conducted on a complaint made against the petitioner and after verification of the educational certificates of the petitioner, the District Superintendent of Education, Dumka ordered payment of pension and other retiral benefits to the petitioner. However, without furnishing a copy of letter dated 9.6.2011 of Bihar School Examination Board, Patna, order for recovery of the aforesaid amount has been passed against the petitioner. It is submitted that the impugned order dated 23.6.2011 has been passed in gross violation of rules of natural justice inasmuch as, even no show-cause notice was issued to the petitioner.

4. As against the above, Mr. L.C.N. Shahdeo, the learned counsel appearing for the State of Jharkhand has submitted that since there was allegation of forgery levelled against the petitioner, which on enquiry has been found correct, there was no requirement of issuing any show cause notice to the petitioner. It is submitted that the petitioner, who has received payment on account of retiral benefits, is required in law to refund the same and therefore, order dated 23.6.2011 has been passed.

5. Mr. Sudarshan Shrivastava, the learned counsel for the respondent No. 6 submits that the enquiry contemplated against the petitioner pursuant to a complaint made by Uma Mahto was within the knowledge of the petitioner. The petitioner has submitted the self-certified certificates and therefore, if after enquiry, it has been detected that those certificates were forged, the petitioner is not entitled for any equitable relief.

6. It is not in dispute that vide order contained in Memo dated 31.3.1973, the petitioner and other candidates were appointed. Memo dated 31.3.1973 discloses that the appointment of the candidates was subject to proper verification and authentication of the educational and training certificate of the candidates. The petitioner continued in service for about 36 years and he superannuated from service on 30.6.2009. Only after the petitioner submitted documents for release of pension and other post-retiral benefits, on a complaint allegedly made against the petitioner, the District Superintendent of Education, Dumka directed the petitioner to submit his educational and training certificate. By letter dated 11.9.2009, the District Superintendent of Education informed the Regional Deputy Director of Education that upon verification educational and training certificate of the petitioner has been found correct. Accordingly, vide letter 23.9.2009 the retiral benefit of the petitioner was directed to be released. It appears that a complaint was made by one Uma Mahto against the petitioner. Referring to the said application, the Regional Deputy Director of Education wrote letter dated 13.10.2009 which discloses that the educational and training certificate of the petitioner were verified from Bihar School Examination Board, Patna and those were found correct. However, vide letter dated 23.6.2011 an

order has been passed for recovery of amount paid to the petitioner in different heads. A perusal of order dated 23.6.2011 discloses that on the basis of letter dated 9.6.2011 of the Bihar School Examination Board, Patna, the said order has been passed. However, it has not been denied by the respondents that a copy of letter dated 9.6.2011 was not furnished to the petitioner. It is not disclosed by the respondents that a show-cause notice was issued to the petitioner. The petitioner has taken a specific stand that the impugned orders have been passed in gross violation of the rules of natural justice. In view of earlier verification of the educational and training certificate of the petitioner, the respondents were under a duty to issue show-cause notice to the petitioner, it was also incumbent upon the respondents to furnish a copy of letter dated 9.6.2011 to the petitioner.

7. Considering the above facts, I am of the opinion that the impugned orders dated. 29.4.2011 and 23.6.2011 are liable to be quashed and accordingly, are hereby quashed. The respondents are at liberty to issue show-cause notice to the petitioner and after seeking response from the petitioner, the respondents would be at liberty to proceed in the matter and take a decision, in accordance with law. It is however, made clear that the impugned orders are quashed only on the ground of violation of rules of natural justice. It would thus, be open to the petitioner to take the grounds, available to him for challenging the order, if any, passed against him. Accordingly, the writ petition stands allowed in the above terms.