

(2007) 02 JH CK 0025
In the Jharkhand High Court

Vinay Kumar Dubey and Another and Dinesh Kumar Dandpat and Others APPELLANT

Vs

State of Jharkhand and Others RESPONDENT

Date of Decision : 15-02-2007

Acts Referred:

Citation : (2007) 4 JCR 33

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Judgement

Ramesh Kumar Merathia, J.—Both the writ petitions have been heard together and are being disposed of by this common order.

2. These two writ petitions have been filed against the orders passed by the Director, Primary Education, Jharkhand by which he directed the District Superintendent of Education to post the petitioners in Nationalised Elementary Schools.

3. Mr. Rajendra Singh, learned senior counsel appearing for the petitioners submitted that though the petitioners were recommended by the Bihar Public Service Commission, Patna for appointment in Nationalised Elementary Schools but they were appointed in the Government Basic Schools. The cadres of both the schools are different. He further submitted that the cadre of Basic Government School is a Divisional Cadre whereas the cadre of Nationalised Elementary Schools is a District Cadre. He further submitted that some orders were passed by the respondents concerned transferring some teachers from one cadre to another including some of the petitioners. The same was challenged by filing writ petition. Ultimately it was held that by virtue of their appointment in the Basic Government School, they will be deemed to be in the Divisional Cadre. It is further submitted that there were several other judgments in similar line and some of them were produced before the Director, Primary Education, Human Resources Development Department, Jharkhand (respondent No. 2) but without considering the said judgments, the impugned orders have been passed. It is,

therefore, submitted that the impugned orders amount to change the cadre which is not permissible under the law and it has been decided in the said case by the High Court.

4. Mr. Shamim Akhtar and Mr. H.K. Mehta, appearing for the State submit that when the B.P.S.C. recommended for appointment in Nationalised Elementary Schools, the District authorities could not have appointed the petitioner in the Basic Government Schools. He further submitted that for appointment in the Basic Government Schools, the requirement is Matric trained whereas the petitioners were not trained when they were appointed in 1994. He further submitted that the appointing authority of the Basic Government School is Regional Deputy Director of Education. In reply, Mr. Singh submitted that from 1991, the requirement of having training for appointment was dispensed with. However, the teachers were required to take training after appointment which they have taken. He further submitted that such objections on behalf of the State cannot be accepted at this distance of time.

5. I am satisfied that the impugned orders have been passed without considering the orders/judgments passed by the High Court in the case of similarly situated teachers including some of the petitioners. It further appears that no reasons have been assigned for accepting/rejecting the contention of the parties in the impugned order.

6. In the circumstances, the impugned orders are quashed. However, the competent authorities will be at liberty to post/transfer the petitioners within their Divisional Cadre.

7. With these observations and directions, both the writ petitions are disposed.