

(2004) 03 JH CK 0091
In the Jharkhand High Court
Case No : CWJC No. 13048 of 1996 (R)

Yadunandan Rabidas and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 22-03-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 2 JCR 514

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : Subodh Kumar Jha, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—The prayer of the petitioners in this writ application is for quashing of the order as contained in Annexure-4, dated 9.12.1995, whereby promotion given to the petitioners in Junior Selection Grade and Senior Selection Grade was cancelled by an order passed by the Regional Deputy Director of Education, Dumka. The petitioners who are all members of Scheduled Castes Category were appointed as Assistant Teachers. By issue of Annexure-3 i.e., the Office order dated the 20th of May, 1995, the petitioners alongwith some others were given the benefit of Senior Selection Grade from the date mentioned against their names pursuant to the decision taken by the Committee constituted for examining the matter of promotion. As per the decision of the Committee, the R.D.D.E issued order dated 20th of May, 1995. whereby the petitioner were promoted in the Senior Selection Grade vide Annexure-3.

2. Thereafter vide Annexure-4 dated 9.12.1995, the respondent No. 4, R.D.D.F. who came on transfer after May, 1995, without taking any approval of the Committee which had recommended for promotion, without affording any opportunity to the petitioners, cancelled the earlier order passed by his predecessor dated 20.5.1995 promoting the petitioner to Senior Selection Grade.

3. However, from the averments made in the counter-affidavit, it appears that the stand taken by the respondents is that the decision taken on 28.4.1995 for promotion to Junior Selection Grade and Senior Selection Grade was according to the old rules and. therefore. Divisional Promotion Committee revised its earlier decision on 13.11.1995 and a fresh decision was taken as per the Resolution dated 13.12.1989 of the Finance Department and also the letter dated the 20th February, 1993, of the Education Department of the Government of Bihar.

4. Learned counsel for the petitioners has submitted that the ground on which, the promotion given to petitioners has been cancelled by the R.D.D.E by Annexure-4 is absolutely wrong and the grounds mentioned therein does not apply in the case of the employees belonging to categories of Scheduled Castes and Scheduled Tribes. The respondents have submitted that the requirement of 12 years of service is required for the candidates belonging to the General category and 11 years of service is required for the candidates belonging to the Reserved category. Accordingly, the submitted that the impugned order as contained in Annexure-4 dated 9.12.1995 is illegal.

5. Nobody appears for the State to press the case of the respondents.

6. Learned counsel appearing for the petitioners further submitted that Annexure-1, the Circular of the Government as contained in letter No, 288, dated 16.5.1978, from which it would appear that the Government had decided to give in relaxation of one year to the candidates of Scheduled Castes and Scheduled Tribes which has not been taken into consideration by the R.D.D.E. Dumka before issuance of the impugned order as contained in Annexure-4. The submission of the learned counsel for the petitioners appears to be correct.

7. Accordingly, this application is allowed, the order as contained in Annexure-4, dated 9.12.1995, is hereby quashed. The matter is remitted back to the R.D.D.E, Dumka with a direction to pass a fresh reasoned order after considering the letter of the Government dated 16.5.1978 and also after considering the relevant rules in that regard and also after giving reasonable opportunity to the petitioners of being heard within eight weeks from the date of service of notices to the petitioners.