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Kumar Arun Anuj Vs. State of Jharkhand

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Court : Jharkhand

Decided On : Jul-14-2017

Appellant : Kumar Arun Anuj

Respondent : State of Jharkhand

Judgement :

1 W.P.(S) No. 912 of 2010 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 912 of 2010 Kumar Arun Anuj Petitioner VERSUS1 The State of Jharkhand 2. The Secretary, Human Resources Development, Govt. of Jharkhand.

3. The Director, Primary Education.

4. Deputy Commissioner, Giridih.

5. The District Education Officer, Giridih 6. The District Programme Officer-cum-District Superintendent of Education, Giridih.

7. Block Development Officer-cum-President of Block Education Committee, Birni, Giridih 8. Block Education Extension Officer - cum - Block Programme Officer, Birni, Giridih.

9. Hemlal Sao, son of Rito Sao, Resident of - Rajmania, P.O. - Rupaydih, Birni, Giridih. ... Respondents. CORAM: HON'BLE MR. JUSTICE DR. S. N. PATHAK For Petitioner : Mr. P.K. Mukhopadhya, Advocate. Mr. Tejo Mistri, Advocate For

the State: J.C. To GP-II0514.07.2017 Heard learned counsel for the parties. Petitioner has approached this Court with a prayer for appointment on the post of Para Teacher in Upgraded Primary school, Rajmania, Niche Tolla, District - Giridih on the basis of recommendation made by the Gram Shiksha Samittee of Village - Rajmania held on 18.09.2006 and petitioner is holding highest qualification than any other candidates. Petitioner has also prayed for quashing appointment of Hemlal Sao (Rspondent No.

9) who was appointed on the said post though he was having lesser qualification than the petitioner and also having lesser marks. The facts in short as has been delineated in the writ petition is that as per policy decision of the State and as per Educational Programme, a decision was taken to appoint one Para Teacher in Upgraded Primary School, Rajmania. Petitioner had applied for the said post. Petitioner passed matriculation in 2nd Division in the year 1999 from Bihar School Examination Board, Patna and Intermediate Examination in Commerce from Jharkhand Intermediate Examination Council in the year 2001 and thereafter he passed B.A. Hons. In History in the year 2005. On 18.09.2006, the Village Education Committee, Rajmania selected the petitioner for the post of Para Teacher and further sent their recommendation. It is case of the petitioner that though he was having highest qualification and thereby 2 W.P.(S) No. 912 of 2010 selected and recommended for appointment as Para Teacher by the Village Education Committee, Rajmania but on the recommendation of respondent no. 8, private respondent no. 9 has been appointed as Para Teacher who was having lesser qualification and percentage of marks than the petitioner. Being aggrieved petitioner filed representation before the respondent no. 8 on 12.05.2008 requesting therein for his appointment as Para Teacher as per terms and conditions mentioned in the advertisement. It is specific case of the petitioner that he had obtained 56.8% marks whereas the respondent no. 9 had obtained 46.7% marks and petitioner is graduate whereas respondent no. 9 is merely intermediate pass. Though this representation was followed by several other representations before respondent no. 8 but he did not pay any heed to the grievance of the petitioner. Petitioner thereafter made an application under Right to Information Act before the District Programme Officer - cum - District Superintendent of Education, Giridih which was duly replied by respondent no. 5 vide letter dated 31.12.2008

informing therein that since respondent no. 9 had rendered free service to the School by imparting education, his name was recommended by the Village Committee and on their recommendation, said appointment has been done. Being aggrieved, petitioner has moved this Court for redressal of his grievance as mentioned hereinabove. Mr. P.K. Mukhopadhya, learned counsel appearing for the petitioner strenuously urges that action of the respondents in appointment of respondent no. 9 ignoring claim of the petitioner is illegal, arbitrary and unconstitutional. Learned counsel for the petitioner argues that appointment of respondent no. 9 is not as per rules and as such fit to be quashed and set aside and petitioner be issued appointment letter as he is fully qualified for the same. On the other hand counter affidavit has been filed by the respondents. Learned counsel appearing for the respondents - State submits that they are bound by the recommendations of the Village Selection Committee and in view of recommendation of Village Selection Committee, respondent no. 9 was appointed and as such, there is no illegality committed by the respondents. Learned counsel justifies appointment of respondent no.

9. Nobody appears on behalf of private respondent no.

9. Be that as it may, having gone through rival submission of the parties, this Court is of the considered view that case of the petitioner needs consideration. This is a glaring example in which apparent illegality is there. Even the respondents authorities are turning deaf ear. What has been mentioned in the advertisement as terms and conditions required for appointment of a Para Teacher, has been given a 3 W.P.(S) No. 912 of 2010 complete go-bye. No person can be appointed against the terms and conditions mentioned in the advertisement. This is a glaring example in which terms and conditions mentioned in the advertisement has been given complete go-bye. No appointment can be done dehorse the rules and admittedly appointment of respondent no. 9 is dehorse rules. The recommendations of the Village Committee cannot be accepted as a gospel truth. Mistakes can be done even by the Village Level Committee. What has been mentioned in the advertisement as terms and conditions required for appointment of Para Teacher has not bee taken care of. As a cumulative effect of the aforesaid observations, rules, guidelines, the impugned letter of appointment issued to

respondent no. 9 is quashed and set aside. It is apparent that petitioner is having highest qualification and fulfilling all the requirements as per terms and conditions mentioned in the advertisement and as such, respondents authorities are directed to consider case of the petitioner for appointment on the post of Para Teacher. Needless to say if the petitioner fulfills required terms and conditions and having qualification of B.A. Hons and having more percentage and marks than respondent no. 9, the respondent shall consider his case for issuance of appointment letter. The entire exercise regarding appointment of petitioner shall be undertaken within a period of six weeks from the date of receipt/ production of a copy of this order. With the aforesaid observations and directions, this writ petition stands disposed of. (Dr. S.N. Pathak, J.) RC/

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