

Arjun Prasad Vs. Education

Arjun Prasad Vs. Education

SooperKanoon Citation : sooperkanoon.com/110751

Court : Jharkhand

Decided On : Aug-11-2017

Appellant : Arjun Prasad

Respondent : Education

Judgement :

1 W.P.(S) No. 5192 of 2013 IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 5192 of 2013 .. Arjun Prasad, S/o Amrit Prasad Yadav, R/o Village-
Kishunpur, Ward No. 15, P.O. & P.S- Chatra, District -Chatra . Petitioner Versus 1.
The State of Jharkhand.

2. The Director, Primary Education, Govt. of Jharkhand, Project Building, Dhurwa,
P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi.

3. The Deputy Commissioner, Chatra, P.O. & P.S-Chatra, District -Chatra 4. The
District Superintendent of Education-cum-District Programme Officer, Chatra, P.O.
& P.S. Chatra, District -Chatra 5. The Block Development Officer-cum-President of
Block Level Education Committee, Chatra, P.O. & P.S. Chatra, District -Chatra .
Respondents CORAM: HON'BLE MR. JUSTICE DR. S.N. PATHAK For the
Petitioner : Mr. Amaresh Kumar, Advocate For the Respondents : Mr. Prashant Kr.
Singh, Advocate C.A.V. on 07.04.2017 PRONOUNCED ON1108.2017 Dr. S.N.
Pathak, J.

Heard the parties.

2. The petitioner has approached this Court with a prayer for quashing the Memo No. 83 dated 16.01.2013 and Memo No. JEP/-960 dated 22.06.2013 (Annexure-10) issued by the respondent No. 4, by which representation filed by the petitioner in terms of an order passed by this Court in W.P. (S) No. 5801 of 2012 has not been considered. Petitioner has further prayed for a direction upon the respondents not to pass such types of order in future, so as to prejudicially effect his interest, which is wholly against the principles of natural justice. Petitioner has further prayed for a direction upon the respondents to pay arrears of salary/honorarium to the petitioner from the date of his joining as a para Teacher/ second Teacher to till date.

3. The brief facts of the case as has been delineated in the writ petition is that petitioner was duly selected as a Para Teacher by Village Education Committee in place of one Sarika Bala, whose selection was canceled on 08.06.2006, due to her long absence from duty at Upgraded Primary School, Murtiya Tola, Chatra. After his selection, the Secretary of the said Village Education Committee submitted details of the petitioner to the Block Education Extension Officer, Chatra for payment of honorarium to the petitioner, although name of the petitioner was approved by the Village Education Committee and Block Education Committee, as is evident from letter dated 13.12.2011. The petitioner has come to know through an 2 W.P.(S) No. 5192 of 2013 information received by one of his friends of District Lohardaga, that there is no requirement of approval from District Level for those Para Teachers, who were selected prior to 01.04.2010 and their names have got approved and have also obtained Basic Training. The above mentioned facts are evident from the information dated 22.12.2010 supplied under RTI, Act. It is quite clear that the Village Education Committee have approved name of the petitioner and sent the same to the Block Education Committee on 11.12.2007 for their approval (Annexure - 4). Thereafter, name of the petitioner was approved by the Block Education Committee on 19.03.2010 on the basis of the letter No. 70 dated 27.01.2010 issued by the District Programme Officer-cum-District Superintendent of Education, Chatra. It is also stated that Village Education Committee made a request for approval of name of the petitioner before the District Programme Officer-cum-District Superintendent of Education, Chatra on 17.02.2011 after obtaining approval from the Block Education Committee. On

14.12.2011, Village Education Committee again wrote a letter to the District Programme Officer, Chatra for due payment of honorarium to the petitioner, which is still awaiting. It is also stated that similarly situated persons moved before this Court in W.P.(S) No. 4589 of 2010 (Vijay Kumar Pandey & Ors. Vs. The State of Jharkhand & Ors.) and the said writ petition was disposed of on 06.10.2010 and in compliance of the said order, concerned authority made approval for payment of due honorarium to the writ petitioners of said petition vide memo No. 393/ Giridih dated 02.03.2011. In light of the order dated 05.10.2012, passed in W.P.(S.) No. 5801 of 2012, the petitioner submitted his representation before the concerned authority on 19.10.2012 for the same and similar benefits. After receiving of the representation filed by the petitioner, the authority concerned, instead of considering the order passed in W.P.(S.) No. 5801 of 2012, has considered the representation only on the basis of opinion of a learned Government Advocate, Chatra, which reads as In my opinion Reasoned order may be passed stating therein current status of W.P.(S) No. 3959 of 2010 and the grievances of the petitioner may be resolved after withdrawal or disposal of the writ petition being W.P. (S) No. 3959 of 2010 as is evident from memo No. 83 dated 16.01.2013. On 30.03.2013, the petitioner again filed second representation for re-consideration of his grievances by way of stating all facts and reply of memo No. 83 dated 16.01.2013 before the concerned authority. Thereafter, on 22.06.2013, the concerned authority has not considered the second representation for reconsideration the grievances of 3 W.P.(S) No. 5192 of 2013 the petitioner vide letter No. 960, by way of same reply as passed earlier on 16.01.2013 vide memo No.

83. Hence, this writ petition has been filed.

4. Mr. Amaresh Kumar, learned counsel appearing on behalf of the petitioner, submitted that petitioner has been duly selected as Para Teacher/Second Teacher by the Village Education Committee and the said post was approved by the authority concerned much before 01.04.2010. It is submitted by the learned counsel that the petitioner was deprived of his right to which he is legally entitled and action of the respondents with regard to not paying the honorarium to the petitioner, is wholly arbitrary, malafide, illegal and against the principles of natural

justice.

5. On the other hand, counter-affidavit has been filed by the respondents. Mr. Prashant Kr. Singh, learned G.P.-VI appearing for the respondents vehemently opposed the contentions advanced by learned counsel for the petitioner and submitted that the petitioner was selected for the post of Para Teacher in Upgraded Primary School, Murtiya Tola, Chatra and his approval for the same was made in the month of March, 2010 itself from the block level but the same has not been approved from the District level in view of the fact that there is a clear cut direction and circular issued by the Government of Jharkhand vide letter No. 1755 dated 01.07.2010 that no untrained para teacher will be appointed. Learned counsel further argued that the writ application filed by the petitioner is not maintainable in the eyes of law and as such liable to be dismissed.

6. Having gone through rival submissions of the parties, this Court is of the considered view that case of the petitioner needs consideration. Petitioner was appointed by the Village Level Committee and was also approved by the District Programme Officer and the District Superintendent of Education on the recommendation of the Block Education Committee. It is apparent that the Village Education Committee, on 14.12.2011, has already recommended for payment of honorarium to the petitioner. It further appears that this Court in W.P.(S) No. 4589 of 2010 (disposed of on 06.10.2010) and further in W.P.(S) No. 5801 of 2012 (disposed of on 05.10.2012), has already directed for consideration of similarly situated petitioner/persons and for payment of their honorarium for the period for which they have rendered their services,.

7. In view of the fact that already similar issues have been decided in W.P.(S) No. 4589 of 2010 and W.P.(S) No. 5801 of 2012, this writ petition is also being disposed of by directing the respondents to decide the representation, if any, pending before them and further to pay honorarium to 4 W.P.(S) No. 5192 of 2013 the petitioner for the period he has rendered his services in light of the orders passed in W.P.(S) No. 4589 of 2010 (disposed of on 06.10.2010) and further in W.P.(S) No. 5801 of 2012 (disposed of on 05.10.2012). Let entire exercise be completed within a period of six weeks from the day of receipt/ production of a

copy of this order.

8. With the aforesaid observations and directions, this writ petition stands disposed of. (Dr. S.N. Pathak, J.) High Court of Jharkhand at Ranchi Dated August 11, 2017
punit /Rc

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com