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Dr Hare Ram Pandey Vs. Human Resource Development

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Court : Jharkhand

Decided On : Aug-23-2017

Appellant : Dr Hare Ram Pandey

Respondent : Human Resource Development

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 208 of 2014 with W.P. (S) No. 515 of 2014 with W.P. (S) No. 521 of 2014 with W.P. (S) No. 538 of 2014 with W.P. (S) No. 807 of 2014 with W.P. (S) No. 1077 of 2014 with W.P. (S) No. 1199 of 2014 with W.P. (S) No. 1265 of 2014 with W.P. (S) No. 1394 of 2014 with W.P. (S) No. 2743 of 2014 with W.P. (S) No. 2745 of 2014 with W.P. (S) No. 2748 of 2014 with W.P. (S) No. 195 of 2015 Kanti Kumari @ Kanti Singh, W/o Sri Pramod Kumar Singh, Presently residing at near Bhagat Singh Chowk, Katras Bazar, P.O + P.S-Katrasgarh, District-Dhanbad, State-Jharkhand. Petitioner (W.P. (S) No. 208 of 2014) Ramanuj Singh, Son of Sri Muso Singh, residing at Patel Nagar, Giridih, P.O. + P.S-Giridih, Dist-Giridih, Jharkhand. ..... Petitioner (W.P. (S) No. 515 of 2014) Dr. Hare Ram Pandey, Son of Late Inar Pandey, R/o Iphim Kothi, P.O. + P.S-Barhi, Dist-Hazaribagh, Jharkhand. ..... Petitioner (W.P. (S) No. 521 of 2014) Dr. Diwakar Dubey, Son of Late Jagdeo Dubey, Resident of Vikash Vidyalaya Campus, Nevari, P.O. + P.S-Vikash, Ranchi, Jharkhand. ..... Petitioner (W.P. (S) No. 538 of 2014) Sheela Bhut Kumar, wife of Francis Barjo, resident of Vill + P.O-Mahesh Munda, P.S-Gandey, Dist-Giridih, Jharkhand. ..... Petitioner (W.P. (S) No. 807 of 2014) Parwati Purty, wife of Sri

Deocharan Laguri, resident of Vill + P.O.Siringsia, P.S. Tonto, Dist-West Singhbhum, Jharkhand. ..... Petitioner (W.P. (S) No. 1077 of 2014) Kamla Sinku, Daughter of Lukha Sinku, resident of Vill + P.O-Jamdih, P.S- Tonto, Dist-West Singhbhum, Jharkhand. ... Petitioner (W.P. (S) No. 1199 of 2014) Rajesh Kumar, Son of Sri Manindra Kumar Singh, House of Sri Sadan Singh, Gali No.4, Jai Prakash Nagar, Dhanbad, Jharkhand. ..... Petitioner (W.P. (S) No. 1265 of 2014) 2 Girindra Kumar Singh, Son of Sri Surendra Prasad Singh, Resident of Kusunda B.C.C.L, Dhanbad, Jharkhand. ..... Petitioner (W.P. (S) No. 1394 of 2014) Ganga Agarwal, C/o Banshi Godown, Near R.S.S. Office, Hamidganj, Daltonganj, P.O. & P.S-Hamidganj, Dist-Palamau. ..... Petitioner (W.P. (S) No. 2743 of 2014) Dhaneshwar Mahto, Son of Ghashi Ram Mahto, resident of Nirmala High School, Mahugaon, P.O.-Mahugaon, P.S. Lapung, District-Ranchi. ..... Petitioner (W.P. (S) No. 2745 of 2014) Bilash Prasad Yadvendu, Son of Ramjiwan Prasad Yadav, resident of Batdiha, Nahar Chowk, P.O., P.S. & District-Godda, Jharkhand. ..... Petitioner (W.P. (S) No. 2748 of 2014) Suresh Kumar Bharti, Son of Gobardhan Bharti, resident of Qtr. No.523, Sector-IIID, P.O. Sector-III, P.S. Sector-I, Bokaro Steel City, Dist-Bokaro, Jharkhand. ..... Petitioner (W.P. (S) No. 195 of 2015) Versus 1.The State of Jharkhand through the Director, Secondary Education , Department of Human Resources, Government of Jharkhand, Project Bhawan, H.E.C. Dhurwa, P.O. Dhurwa, P.S.-Jagarnathpur, Dist-Ranchi, State-Jharkhand.

2. The Director, Secondary Education, Ministry of Human Resources Development Department, Government of Jharkhand, Project Bhawan, H.E.C. Dhurwa, P.O. Dhurwa, P.S.-Jagarnathpur, Dist-Ranchi, State- Jharkhand. 3.The Chairman, Jharkhand Public Service Commission, having its office at Circular Road, Ranchi, P.O. + P.S-Lalpur, District-Ranchi. . Respondents (in W.P. (S) No. 208 of 2014) 1.The State of Jharkhand through its Principal Secretary, Human Resources Development Department, Project Building, Dhurwa, Ranchi. 2.The Director, Secondary Education, Project Building, Dhurwa, Ranchi. 3.Jharkhand Public Service Commission, through its Chairman, Circular Road, Ranchi. 4.The Controller of Examination, Jharkhand Public Service Commission, Circular Road, Ranchi. Respondents (in rest cases) --------- CORAM: HONBLE MR. JUSTICE PRAMATH PATNAIK ---------- For the Petitioner : Mr. Mahesh Tewari, Adv. (in W.P. (S) No. 208 of 2014) Mr. Munga Lal Kumar Chitra (in rest cases) For the

Respondent-State : M/s Binod Singh, S.C (L & C), D.K. Dubey (Sr. S.C.I), Rajesh Kumar (G.P.V), Mr. Bhawesh Kumar (S.C.II) & Mr. Prashant Kr. Singh. (G.P.VI). For the J.P.S.C : Mr. Sanjay Piprawall, Adv. ---------- rd 10/Dated:

23. August, 2017 Per Pramath Patnaik, J: Since the reliefs sought for in the aforesaid writ petitions are identical, with the consent of the respective counsels, all the writ petitions are heard together and are being disposed of by this common order/judgment. 3 2. Heard learned counsel for the petitioners, learned counsel for the respondent- State as also learned counsel for the respondent-J.P.S.C.

3. The facts, in brief, is that the petitioners possessing the requisite qualification applied for posts of Headmasters in taken over High Schools for direct recruitment which were advertised vide Advertisement No. 15 of 2006 and after going through the selection process they were finally selected for the said post. The case of the petitioners is that after due examination and scrutiny a panel containing the names of candidates had been prepared wherein the name of the petitioners figured in 1st list as well as in the revised list. But to the utter surprise, the petitioners were not appointed to the posts of Headmaster, whereas it is alleged that 75 persons were appointed from the said Panel, out of which, some persons below the petitioners in the panel have also been appointed, ignoring the claim of the petitioners.

4. The respondent-State has filed counter affidavit in these cases, in which, it is stated that appointment to the posts of Headmaster in the taken over secondary schools was guided earlier by Bihar Nationalised Secondary School (Service Condition) Rules, 1983, in which there was provision for filling up 20% of vacant posts of Headmaster by direct recruitment and rest 80% were to be filled up by promotion, but after creation of the State of Jharkhand, another Rule has been framed, viz. Jharkhand Nationalised Secondary School (Service Condition) Rules, 2004, in which, it is provided that 50% posts of Headmaster shall be filled up by direct recruitment and remaining 50% by promotion. It has been submitted that it was in accordance with the Rules of 2004, that the advertisement was published, in which, the petitioners were finally selected. According to the counter affidavit, filed by the respondent-State, it is an admitted position that 75 persons, from the Panel, have already been appointed and the future of 46 candidates still hangs in

balance.

5. It is also stated in the counter affidavit that one W.P.(S) No. 7822 of 2006 [Yudhisthir Mahto Vs. State of Jharkhand & Ors.] was filed by a teacher, claiming appointment as Headmasters by promotion in accordance with 1983 Rules, in which, there was provision for filling up the 80% posts of Headmasters by promotion. This Court by order dated 25.6.2008, allowed the writ petition, directing that the Headmasters, who were qualified and eligible in accordance with the Rules applicable at the time of initiation of 4 the process for consideration, could not be denied the promotion on the ground of coming into force of the new Rules of the year 2004, which has not been made applicable with retrospective effect. It is stated that against the said order, the respondent-State has preferred L.P.A., in this Court, being L.P.A. No. 323 of 2008, which is still pending, and accordingly, the process of appointment of Headmasters is at stand still. The stand of the respondent- State is that any further appointment can be made only after the disposal of the said L.P.A by this Court.

6. In the counter affidavit filed on behalf of the State, there is no denial of the fact that some candidates, below the petitioners in the Panel, have already been appointed by the State Government. Learned counsels appearing for the State is also not in a position to justify the action of the State Government in not appointing the petitioners to the post of Headmaster, and appointing the persons below him from the Panel.

7. During course of hearing, learned counsel for the petitioners referred to the decision rendered in the case of Dr. Surjeet Singh Vs. The State of Jharkhand & Ors passed in W.P. (S) No. 7165 of 2012 and submitted that case of the petitioner is squarely covered by the said decision.

8. Learned counsel appearing for the respondents though resisted the prayer made by the petitioners but does not dispute law laid down in the case of Dr. Surjeet Singh (supra).

9. In such view of the matter, the State Government is directed to forthwith appoint the petitioners to the posts of Headmaster in accordance with law, irrespective of

the pendency of the L.P.A No. 323 of 2008, taking into account the fact that the petitioners name were found in both the lists i.e. 1st list as well as in the revised list and further some candidates below the petitioners from the said panel have also been appointed. The respondents are directed to comply this order positively within a period of three months from today.

10. With the aforesaid observations and directions, these writ applications stands allowed. (Pramath Patnaik, J.) Alankar/Saket/-

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