

Sanjay Kumar Singh and ors. Vs. State of Bihar and ors.

Sanjay Kumar Singh and ors. Vs. State of Bihar and ors.

SooperKanoon Citation : sooperkanoon.com/119974

Court : Patna

Decided On : Jan-12-2005

Judge : Chandramauli Kumar Prasad, J.

Acts : Service Law

Appeal No. : CWJC No. 10450 of 2004

Appellant : Sanjay Kumar Singh and ors.

Respondent : State of Bihar and ors.

Advocate for Def. : A.K. Singh, SC III

Advocate for Pet/Ap. : Bindhyachal Singh, Adv.

Disposition : Application allowed

Prior history : Chandramauli Kumar Prasad, J. 1. This application has been filed for quashing the order by which the salary of the petitioners has been directed to be stopped, metric trained scale granted has been directed to be rescinded and payment made on account thereof has been sought to be recovered on the ground that they had passed the B.Ed. examination from Millia Fakhruddin Ali Ahmad B.Ed. Teachers Training College, Rambagh, Purnea, hereinafter referred to as 'the College' the recognition whereof ha

Judgement :

Chandramauli Kumar Prasad, J.

1. This application has been filed for quashing the order by which the salary of the petitioners has been directed to be stopped, metric trained scale granted has been directed to be rescinded and payment made on account thereof has been sought to be recovered on the ground that they had passed the B.Ed. examination from Millia Fakhruddin Ali Ahmad B.Ed. Teachers Training College, Rambagh, Purnea, hereinafter referred to as 'the College' the recognition whereof has been withdrawn from retrospective effect.

2. Short facts giving rise to the present application are that the petitioners were appointed as Assistant Teachers taking into account the fact that they had passed B.Ed. examination from the College in question. It is not in dispute that at the time the petitioners passed the B.Ed. examination, the said College was duly recognised. Later-on, the recognition of the said College had been withdrawn and taking note of the said fact, by the impugned order, a direction has been issued to stop the salary of the petitioners.

3. Mr. Bindhyachal Singh, learned counsel for the petitioners contends that the petitioners passed the examination from the College in question when it was duly recognised and hence, benefits flowing from that, cannot be withdrawn only on the ground that the recognition of the College has been withdrawn with retrospective effect. In support of the submission reliance has been placed on an unreported decision of this Court dated 22.9.2004 passed in C.W.J.C. No. 7217 of 2003 (Janki Sarkar v. State and Ors.) and my attention has been drawn to the following passage from the said judgment which reads as follows :

'..... This Court finds merit in the submissions advanced on behalf of the petitioner that a certificate of training granted by an institute or college when it had proper recognition or affiliation cannot lose its validity only because in future the college or institute is refused recognition by a statutory body coming into existence from a later date and having jurisdiction over a period of time much after issuance of certificate in question.'

4. Reliance has also been placed on a decision of the Supreme Court in the case of Suresh Pal and Ors. v. State of Haryana and Ors., (1987) 2 Supreme Court cases 445 and my attention has been drawn to the following passage from para-3 of the judgment which reads as follows :

'3. We are of the view that since at the time when the petitioners joined the course, it was recognised by the Government of Haryana and it was on the basis of this recognition that the petitioners joined the course, it would be unjust to tell the petitioners now that though at the time of their joining the course it was recognised, yet they cannot be given the benefit of such recognition and the certificates obtained by them would be futile, because during the pendency of the course it was derecognized by the State Government on January 9, 1985.'

5. Junior Counsel to Standing Counsel No. III, however, appearing on behalf of the State, submits that as the recognition of the college from where the petitioners have obtained the degree has been withdrawn with retrospective effect, the impugned order cannot be faulted.

6. Having appreciated the rival submission, I find substance in the submission of the learned counsel for the petitioners and the decisions relied on, support his contention. It is not in dispute that at the time when the petitioners passed the B.Ed. examination from the College, it was duly recognized. In my opinion, its derecognition with retrospective effect, shall not divest the petitioners' right, which had accrued to them on account of passing the B.Ed. examination from the said College.

7. As the impugned order has been passed only on the ground that the College from which the petitioners had passed the B.Ed. examination has been derecognised with retrospective effect, the impugned order directing for stoppage of salary and rescinding the grant of Matric Trained Scale and consequential order for recovery of the amount cannot be allowed to stand.

8. In the result, this application is allowed. The impugned order directing for stoppage of the salary and rescinding the grant of Matric Trained Scale and consequential directions for recovery of the excess amount already paid to the

petitioners, is quashed. In the facts and circumstances of the case, there shall be no order as to cost.

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