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Court : Patna

Decided On : Jan-12-2005

Judge : Chandramauli Kumar Prasad, J.

Acts : Service Law

Appeal No. : C.W.J.C. No. 2242 of 2004

Appellant : Amrendra Kumar Singh and ors.

Respondent : The State of Bihar and ors.

Advocate for Def. : Prabhat Kumar Singh, JC to SC III

Advocate for Pet/Ap. : Ganesh Prasad Singh, Sr. Adv., Md. Helal Ahmad, Adv.

Disposition : Application allowed

Judgement :

Chandramauli Kumar Prasad, J.

1. This writ application was initially filed for quashing the show cause notice issued to the petitioners to show cause as to why their services be not terminated. However, during the pendency of the application, the services of the petitioners have been terminated by orders dated 31.3.2004 (Annexures 8, 9 and 10) and accordingly, the prayer of the petitioners is to quash the aforesaid orders.

2. Facts lie in a narrow compass. On the recommendation of the Bihar Public Service Commission, petitioners were appointed as Assistant Teachers. They had passed B.Ed. Examination from Millia Fakhruddin Ali Ahmad Teachers Training (B.Ed.) College, Rambagh, Purnea, hereinafter referred to as the College at the time when the said college was recognised. The recognition of the said college had been withdrawn with retrospective effect and taking into account the said fact, the appointment of the petitioners has been cancelled.

3. Mr. Ganesh Prasad Singh, Senior Advocate, appearing on behalf of the petitioners raises a very short point. He submits 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examination from the college in question when it was duly recognised and hence, benefits flowing from that, cannot be withdrawn only on the ground that the recognition of the college has been withdrawn with retrospective effect.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 CWJC 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.'

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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 derecognised 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, the college was duly recognised. In my opinion, its derecognition with retrospective effect, shall not divest the petitioners the right which had accrued to them on account of passing the B.Ed. examination from the said college. As the petitioner's services have been terminated only on the ground that the college in question has been derecognised with retrospective effect, the impugned orders cannot be allowed to stand.

7. In the result, this application is allowed, the impugned orders terminating the services of the petitioners (Annexures 8, 9 and 10) are quashed and the petitioners are directed to be reinstated in service forthwith with all consequential benefits. In the facts and circumstances of the case, there shall be no order as to cost.

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