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Court : Jharkhand

Decided On : Nov-26-2014

Appellant : Som Nath Roy and Ors

Respondent : Human Resource Development

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 869 of 2014 --- Som Nath Roy & others --- --- ---- Petitioners Versus The State of Jharkhand through the Principal Secretary / Secretary, Human Resources Development Department & others --- --- --- Respondents --- CORAM: The Honble Mr. Justice Aparesh Kumar Singh For the Petitioners: Mr. Manoj Tandon and Mr. Ranjit Kumar, Advocate For the State: JC to A.A.G. Mr. Ajit Kumar For the JEPC: Mr. Saurav Arun, Advocate --- 04/ 26.11.2014 Heard counsel for the parties.

2. Petitioners who are 41 in numbers, are aggrieved by rejection of their claim by the District Superintendent of Education-cum-District Programme Officer, Jharkhand Education Project, Jamtara (Respondent No.

4) through office order bearing memo no. 717 dated 18.07.2013 (Annexure-13). Petitioners' claim for honorarium as Para Teachers on the strength of their assertion that they were appointed as such by the Village Education Committee which was approved by the Block Education Committee as well between the period 14.09.2007 to 11.01.2008, stands rejected by the impugned order.

3. Petitioners have therefore made a prayer that they be paid honorarium admissible to them as they were appointed prior to 05.02.2008 i.e. the date when the decision not to appoint Para Teachers in the ratio of 1:40 was communicated by the Jharkhand Education Project Council to the District authorities. Petitioners however have not enclosed any appointment letter or agreement showing their contractual engagement as Para Teachers, though they have relied upon the information said to have been obtained under the R.T.I. vide annexure-3 as also the observations made in the impugned order itself, as per which, their selection were made between September 2007 to January 2008.

4. Petitioners earlier had approached this Court in WPS No. 6237/2012 with a grievance that they are not being paid remuneration as Para Teachers, though they have been regularly working since 2007-08. The writ petition was disposed of on 2. 21.02.2013 and thereafter, petitioners' representation has been rejected by the reasoned order dated 18.07.2013, which is under challenge in the present writ application.

5. Much emphasis has been laid by the learned counsel for the petitioners on the plea that any decision not to appoint Para Teachers in schools beyond the ratio of 1:40 said to have been taken in September 2007 by the Jharkhand Education Project Council, could not have rendered the selection and appointment of these petitioners bad, as that was communicated only on 05.02.2008 i.e. after their appointment. It is submitted that the said decision has also not been brought on record by the respondents in their counter affidavit. Therefore, respondents are not justified in rejecting the petitioners' claim. Reference has also been made to the judgment dated 27.06.2013 passed in WPS No. 6046/2011 in the case of Mahendra Choudhary vs. The State of Jharkhand & others (Annexure-16) in support of the contention that similarly situated persons appointed by the Village Education Committee after September 2007 contrary to the direction of the Department, have been retained in service after cancellation of their appointments, was quashed by the Learned Single Bench of this Court in the judgment, as aforesaid. Petitioners therefore should be accorded parity in treatment.

6. Counsel for the respondent State and Jharkhand Education Project Council have however submitted that the selection of the petitioners was contrary to the direction of the Jharkhand Education Project Council which is the body to implement the Central Scheme in respect of Sarv Shiksha Abhiyan in the entire State. According to them, any selection by the Village Education Committee and subsequent approval by the Block Education Committee is subject to final confirmation by the District authorities which has not been done in the instant case. Therefore, no legal right can flow to them on the basis of the alleged selection. It is further submitted that the officials who were responsible for such selection and hurried joining of these petitioners, have been proceeded against 3. departmentally on account of their serious misconduct as would also appear from the impugned order. It is further submitted that the ratio of 40:1 is to be observed irrespective of the districts where such appointment is to be made and in a uniform manner as per guidelines issued by the Jharkhand Education Project Council. Since, these selection were not in consonance with the decision of the council and had not been approved by the District authorities either, petitioners do not have a sustainable legal right. Further statements have been made by referring to the findings recorded in the impugned order itself that non of these petitioners were found to be working in the schools upon inquiry from the Block Education Extension Officer concerned and they have also been relieved by the Village Education Committee concerned. Therefore, no relief can be granted to them.

7. Having considered the material facts and the relevant documents relied upon by the parties and statements made thereupon, at the outset, it is to be observed that the legal right to claim honorarium by these petitioners would flow only if their appointments were finally confirmed by the District authorities in terms of the guidelines issued by the Jharkhand Education Project Council for appointment of Para Teachers. The fact that this requirement was not fulfilled, is not in dispute. Petitioners have also not enclosed any appointment letter in respect of the schools which they claim to have been appointed or agreement entered with the Village Education Committee for such contractual engagement as Para Teachers in the respective schools which they claim to have served. In the absence of the aforesaid legal requirements, no sanctity to their selection can be attached. It further appears that in the whole process of their selection, there were irregularity

and illegality committed by the then Block Education Extension Officer of Jamtara and Narayanpur where these petitioners were allowed to submit joining despite stipulation issued by the Jharkhand Education Project Council that no selection of Para Teacher be made beyond the ratio of 40:1 in any such schools. Therefore, the impugned order which is a well reasoned one and has 4. considered all the plea and grounds taken by the petitioners, does not appear to suffer from any non-application of mind or is illegal and perverse.

8. In such circumstances, in exercise of writ jurisdiction of this Court, on a review of the decision making process, it can't be said that the order impugned is either irrational or has been passed in a perverse manner. Any right to claim honorarium, as already observed herein-above, can flow from a legal and valid appointment which the petitioners have failed to show or establish. Accordingly, I do not find any merit in these writ application, which is accordingly dismissed. (Aparesh Kumar Singh, J) Ranjeet/

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