

Ajay Kumar Thakur and anr. Vs. State of Jharkhand Through Secretary, Department of Human Resources Development (Primary and Middle Education) Govt. of Jharkhand and ors.

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Court : Jharkhand

Decided On : Aug-09-2005

Reported in : [2005(4)JCR39(Jhr)]

Judge : S.J. Mukhopadhaya, J.

Appeal No. : W.P.(S) No. 2665 of 2004

Appellant : Ajay Kumar Thakur and anr.

Respondent : State of Jharkhand Through Secretary, Department of Human Resources Development (Primary and Middle

Advocate for Def. : I. Sen Coudhary, S.C. III

Advocate for Pet/Ap. : Pradeep Kumar and; Mahabir Prasad, Advs.; Piprawall,

Disposition : Petition allowed

Judgement :

S.J. Mukhopadhaya, J.

1. This writ petition has been preferred by the petitioners for direction on the Respondents to consider their case and to appoint them to the post of primary trained teachers in the district of Bokaro.

2. The brief fact of the case is that the 4th Respondent invited applications for appointment to the post of Primary Trained Teachers by publishing advertisement in the newspaper dated 28th August, 2002. The last date for submission of applications was fixed as 30th September, 2002.

3. According to the first petitioner, who holds the qualification of M.Sc. (Chemistry), had completed his B.Ed, study from Patna Training College, Patna. His final examination having started since 16th September, 2002, he also applied for appointment to the post advertised post. The result of the B.Ed, examination was published in the month of December, 2002.

4. On the other hand, according to the second petitioner, he is M.A. (Labour and Social Welfare) and had also completed his B.Ed, study from Patna Training College, Patna. His final examination having started since 16th September, 2002, he also applied for appointment to the post advertised post. The result of the B.Ed. examination was published in the month of December, 2002.

5. The, 4th Respondent, Jharkhand Public Service Commission thereafter referred to as the (JPSC) held competitive test known as Primary Trained Teachers Recruitment Examination, 2003, the petitioners appeared in the said examination held on 27th May, 2003 and having come out successful, their names were published in the newspaper on 14th November, 2003. The successful candidates including petitioners were asked to produce the original certificates for scrutiny by 19th/22th November, 2003 which they produced. Their grievance is that when another list was published in January, 2004, out of 513 successful candidates, names of 252 candidates were shown for appointment as Primary Trained Teachers in the district of Bokaro. In the said list, the names of petitioners were excluded. On enquiry, they could come to know that their names were excluded from the final list of January, 2004, after scrutiny of papers only on the ground that they had not passed B.Ed, examination by the last date of submission of applications i.e. 30th September, 2002.

6. Learned counsel for the petitioners relied on a Circular issued by the State of Jharkhand under the signature of Commissioner and Secretary, Human Resources Development Department, Jharkhand, circulated vide letter 'No. 8/B 1-0423/ 2003-1256 dated 21st May, 2004. By the said letter, all the Deputy Commissioners of district and all the District Superintendents of Education of the State were informed that those candidates who have been recommended as successful by the JPSC and had appeared in the Teachers Training Examination prior to filling up the forms and were waiting for result, even if their results have been declared subsequently, they can be appointed subject to fulfillment of other criteria. It was submitted that a number of similarly situated candidates who appeared in the Teachers Training Examination, and result was published subsequently in which they were declared passed, but prior to the recommendation, they have been appointed and, on the other hand, the petitioners have been discriminated.

7. The Respondents, while did not choose to dispute the aforesaid facts, their counsel submitted that the petitioners had appeared almost in all papers of B.Ed. examination prior to the last date of submission of application, but one paper was held after submission of application. It was accepted that the petitioners passed the B.Ed, examination in December, 2002, i.e. much prior to the written test.

8. Similar issue fell for consideration before a Division Bench of this Court in the case of Krishna Kumar Jha and another v. State of Jharkhand and another, in WP (S) No. 921 of 2005; See also 2005 (2) JCR 283 (Jhr). A bench of this Court, vide its judgment dated 1st April, 2005 having noticed the letter dated 21st of May, 2004, held as follows :

'In such circumstances and also having regard to the policy declaration of the State Government and having further regard to the fact that the letter dated 21st May, 2004 had not been brought to the notice of the learned Single Judge who had decided the writ application filed by Shekhar Gupta, we are inclined to allow this writ application. In our view, the policy declaration of the State Government contained in its letter dated 21st May, 2004 makes all the difference between the earlier decision of Shekhar Gupta's case and the instant case.'

9. The case of the petitioners being covered by the decision in the case of Krishna Kumar Jha, 2005 (2) JCR 283 (Jhr), they deserve consideration of their cases for appointment.

10. The writ petition is, according, allowed and the concerned respondents are directed to issue to the writ petitioners letters' of appointment, within a period of three months from the date of communication of this order, as Primary Trained Teachers, if they are otherwise eligible for such appointment. However, in the facts and circumstances, there shall be no order, as to costs. Petition allowed.

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