

Umar Sheikh Vs. State of Jharkhand and ors.

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Court : Jharkhand

Decided On : May-18-2004

Reported in : [2004(3)JCR510(Jhr)]

Judge : Amareshwar Sahay, J.

Acts : Service Law; Constitution of India - Article 226

Appeal No. : W.P.(S) No. 2402 of 2002

Appellant : Umar Sheikh

Respondent : State of Jharkhand and ors.

Advocate for Def. : B.S. Lall, AAG

Advocate for Pet/Ap. : A. Allam,; Pankaj Kumar and; Nehala Sharmin, Advs.

Judgement :

ORDER

Amareshwar Sahay, J.

1. The petitioner, a retired panchayat sewak, has filed this application for quashing the letter as contained in Annexure-4 dated 5.10.2001 issued under the signature of the Deputy Commissioner , Dhanbad, whereby the petitioner has been informed that unless and until genuineness and validity of the educational certificate of the

petitioner is established, it is not possible to provide retiral benefit to him. By the said letter the Deputy Commissioner, as asked the petitioner to submit the documents mentioned in the said letter, e.g. like the Marks-sheet, Certificate, Copy of Admit Card, Name of the Examination Center as well as Roll Number and the year of passing the matriculation examination.

2. The grievance of the petitioner is that he was not paid his salary for 24 months while he was posted at Baghmara Block and then he has also not been paid salary for 28 months while he was posted at Tundi Block. It is stated that the respondent No. 5 by issuing letter dated 16.12.1999 informed the petitioner that he is going to retire on 31.1.2000 treating his date of birth to be 15.1.1942.

3. On the other hand as it appears from the counter affidavit that the case of the respondents is that on the basis of the matriculation Certificate No. 60222 dated 30.7.1970 the petitioner was appointed as Gram Panchayat Sewak. It is further stated in the counter affidavit that the petitioner has filed an application before the Deputy Commissioner in March, 2000 stating therein that his date of birth was 15.1.1942 and therefore, though he could not pass Hindi noting and drafting examination but since he crossed the age of fifty years and as such according to the Government Rules, he was entitled to increment in his salary. In course of the verification of the facts, the Deputy Commissioner examined his service book and then he suspected regarding entries in his Service Book because there was no signature of the Block Development Officer, Tundi in the service book of the petitioner and only the official seal was there. Thereafter, the petitioner was asked to produce the certificate granted by the Bihar School Examination Board from which it appeared that there was some discrepancy in the name of the petitioner.

4. In my view since the Deputy Commissioner is already making enquiry in the said matter and has asked the petitioner to produce certain documents as mentioned in Annexure-4 to the writ application, and as such no positive order in this case is desirable to be passed at this stage.

5. Accordingly, this application is disposed of with a direction to the Deputy Commissioner, Dhanbad to conclude the enquiry within a period of four months from the date of receipt/production of a copy of this order, and to take a decision in

the matter and to pass an appropriate order in accordance with law. The petitioner is also directed to cooperate in the said enquiry and he should produce all the required documents as has been required by the Deputy Commissioner at an earliest so that the enquiry against him should be completed within the stipulated period.

6. It is made clear that if the petitioner does not cooperate in the enquiry and does not produce the documents, the Deputy Commissioner would be at liberty to conclude the enquiry on the basis of the materials on record.

7. With the above observations and directions this application is disposed of.

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