

Rajeev Kumar Bajpai Vs. Education

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Court : Jharkhand

Decided On : Jun-17-2015

Appellant : Rajeev Kumar Bajpai

Respondent : Education

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W. P. (S) No. 4289 of 2013
... Rajeev Kumar Bajpai ---- ---- ---- Petitioner -V e r s u s- 1. The State of Jharkhand 2. The Director, Primary Education, Project Building, Ranchi 3. The Regional Education, Deputy Director, Santhal Pargana Division, Dumka 4. The Deputy Commissioner, Godda 5. The District Superintendent of Education - cum-District Programme Officer, Godda 6. The Block Education Extension Officer, Boarijore, Godda 7. The Block Development Officer-cum-President of Block Education Committee, Boarijore, Godda 8. The Head Master, Upgraded Primary School, Baheliyachak, Godda --- --- --- ---- Respondents --- CORAM: The Honble Mr. Justice Aparesh Kumar Singh For the Petitioner: Mr. Purnendu Kr. Jha, Advocate For the Respondent-State: JC to GP-II --- 08 17.06.2015 Heard counsel for the parties.

2. Order dated 29.04.2014 which recapitulates the grievance of the petitioner, is being quoted hereunder: The grievances of the petitioner is that though his appointment was approved by the Block Education Committee and communicated to the District Superintendent of Education vide Annexure-1 dated 08.04.2008 itself, he is not being paid his honorarium from 01.04.2009 till date in spite of the

fact that he has been working as para teacher in Bahelya Chak Upgraded Primary School, Boarijore Block, in the district of Godda. Learned counsel for the respondents prays for and is allowed four weeks' time to seek instruction and file counter affidavit in the matter. In the meantime, the respondents shall look into the matter as to whether he has been discharging his duty upon proper confirmation of his appointment by the respondent and whether his honorarium be paid on that count or not.

3. Respondents thereafter filed a counter affidavit denying the petitioner's claim. The stand of the respondents and denial on the part of the petitioner was taken note of on 09.04.2015 where certain specific queries were put to the counsel for the petitioner and in order to arrive at a considered view of the matter, Deputy Commissioner, Godda was directed to conduct an inquiry into the whole affair 2. and come to the conclusion as to whether this petitioner had actually discharged his duties as Para Teacher in the school in question from 2009 onwards. Relevant part of order dated 09.04.2015 is also being reproduced hereunder: In the meantime, the Deputy Commissioner, Godda shall conduct an enquiry into the whole affair and come to a conclusion as to whether this petitioner has actually discharged duties as Para Teacher in the School in question from 2009 onwards. In this context all relevant documents as well as statement of teachers and at least some of the students, who were there in the School during that period if required, be taken during the course of enquiry. Let a report may be submitted on the next date. List this case on 14.05.2015.

4. On the previous date, a report was filed by way of a supplementary counter affidavit prepared by the District Superintendent of Education, Godda which is enclosed as Annexure-B. The petitioner however despite the matter being adjourned to enable him to respond, has not controverted the statements made in the said supplementary counter affidavit, nor challenged the inquiry report.

5. The Inquiry report inter-alia indicates that after the order of this Court, District Superintendent of Education, Godda conducted an inquiry on the direction of the Deputy Commissioner, Godda by recording the statements of the members of the Village Education Committee and other villagers who reported that the petitioner

was absent from 2009 to August 2012. Members of the Village Education Committee also state that because of lack of knowledge of the rules, on 12.08.2012, Aam Sabha granted permission to the petitioner to record his attendance. However, they also state that the petitioner even thereafter came to the school only on few occasions. Statements of Head Para Teacher Sunil Hansda and Para Teacher Pramod Kumar were also recorded who state that for the period 2009 to August 2012, petitioner had remained absent from the school and after decision of the Aam Sabha on 12.08.2012, petitioner made attendance against the rules and thereafter used to record his attendance in a forcible manner. Certain students also gave their statements that the petitioner used to come to the school 3. only on few occasions, but he never indulged in their teaching. Statements of other persons is also enclosed to the report based upon which, it is inferred that for the period 2009 to August 2012, petitioner had remained absent from duty and even after unauthorized joining permission granted by the Aam Sabha in August 2012, only on few occasions he came and recorded his attendance. Therefore, the claim for payment of honorarium is not sustainable.

6. As has been noticed in the earlier part of this Judgment, there are statements and denial on the part of the parties relating to the discharge of duties by the petitioner for the period he claims honorarium. In order to resolve this controversy, this Court considered it necessary to have a report from the Deputy Commissioner, Godda who directed the District Superintendent of Education, Godda to submit a report in the manner as has been noted hereinabove. Even after the said report which remained unchallenged or contents thereof remained unrebutted, claim in respect of discharge of duties by the petitioner does not seem to be admitted state of facts.

7. Counsel for the petitioner however has tried to impress that the Deputy Commissioner, Godda ought to have himself conducted the inquiry as DSE, Godda had bias against him, more so when there was specific order of this Court to the Deputy Commissioner, Godda. Though, such oral submission is made but there is no supporting evidence to substantiate such a charge of malice. This Court, on the other hand, considers that the Deputy Commissioner, Godda could have delegated the role of conducting the inquiry to any suitable officer which he

has done, as the Deputy Commissioner of the District is often seriously engaged in many such important work.

8. In view of the facts which has been noticed hereinabove, claim of the petitioner is not based on admissible documents, based upon which writ or direction can be issued in exercise of Article 226 of the Constitution of India. Petitioner has also failed to respond to the query made on 09.04.2015 in respect of 4. his claim that he has been performing his duties in the school for the period in question. In such circumstances, no relief can be granted to the petitioner. Accordingly, the writ petition is dismissed. (Aparesh Kumar Singh, J) Ranjeet/

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