

Dhaneshwar Mahto Vs. Human Resource Development

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Court : Jharkhand

Decided On : Aug-04-2015

Appellant : Dhaneshwar Mahto

Respondent : Human Resource Development

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P(S). No. 463 of 2014 Dhaneshwar Mahto Petitioner Versus 1.State of Jharkhand 2.Commissioner cum Secretary, H.R.D. Dept., Ranchi 3.Director, Secondary Education, H.R.D. Dept., Ranchi 4.Regional Dy. Director of Education, Ranchi 5.District Education Officer, Lohardaga 6.Accountant General(A&E), Govt. of Jharkhand, Ranchi Respondents with W.P(S). No. 492 of 2014 Anugrahit Minj Petitioner Versus 1.State of Jharkhand 2.Commissioner cum Secretary, H.R.D. Dept., Ranchi 3.Director, Secondary Education, H.R.D. Dept., Ranchi 4.Regional Dy. Director of Education, Ranchi 5.District Education Officer, Lohardaga Respondents with W.P(S). No. 519 of 2014 Jagannath Yadav Petitioner Versus 1.State of Jharkhand 2.Commissioner cum Secretary, H.R.D. Dept., Ranchi 3.Director, Secondary Education, H.R.D. Dept., Ranchi 4.Regional Dy. Director of Education, Ranchi 5.District Education Officer, Lohardaga 6.Accountant General(A&E), Govt. of Jharkhand, Ranchi Respondents CORAM: HONBLE MR. JUSTICE APARESH KUMAR SINGH For the Petitioners : Mr.Subodh Kumar Pandey For the Respondents : Mrs. Chaitali C. Sinha, J.C to Mr. Jai Prakash, A.A.G & Mrs. Richa Sanchita (in W.P.S. No. 463/2014) 03/04.08.2015 Heard learned counsel for

the parties. All these petitioners belongs to the same school i.e. Project High School, Mungo, Lohardaga. Except petitioner no.1, Dhaneshwar Mahto, who has retired in November 2013 from the post of Assistant Teacher, other two petitioners are still in service. The common grievance of these petitioners are that promotional benefits as per the departmental circulars have not been granted to them, neither time bound promotion has been given. -2- Individual petitioners are relying upon the order of their appointment to advance their argument. Dhaneshwar Mahto, petitioner in W.P.S. No. 463 of 2014 is relying upon Annexure-1 series, appointment letter dated 26.10.1982 issued by the Secretary of the Government High School, Senha, Ranchi and recognition given to such appointment by the Director, Secondary Education cum Joint Secretary, Department of H.R.D., Bihar, Patna through memo no. 1124 dated 25.11.1988. A condition was however incorporated in the order of recognition that such adhoc recognition is however dependent upon recommendation of the Vidyalaya Seva Board for the purpose of regularization of service of the petitioner. Anugrahit Minj, petitioner in W.P.S. No. 492 of 2014 is also relying upon Annexure-1 series, his appointment letter dated 26.10.1982 issued by the Secretary, Government High School, Senha, Ranchi and recognition has been given to such appointment vide memo no. 807 dated 6.7.1988, issued by the Director, Secondary Education cum Joint Secretary, H.R.D., Government of Bihar. In the said letter the petitioner, Anugrahit Minj is shown to have been appointed by the Managing Committee on 26.10.1982 and was having qualification of B.A. Trained and appointment was against the subject of Hindi. Jagannath Yadav, petitioner in W.P.S. No. 519 of 2014 is also relying upon Annexure-1 series, appointment letter dated 25.10.1984 and recognition to such appointment by the Director, Secondary Education cum Joint Secretary, Department of H.R.D. , Government of Bihar vide memo no. 807 dated 6.7.1988. According to him the said order of recognition shows that his appointment was made by the Managing Committee on 25.10.1984 and he is having qualification of B.A. Honours -3- Untrained and being appointed in the subject of English. These petitioners contended that since their appointment and its adhoc approval / sanction by the Director, Secondary Education, pursuant to the aforesaid orders, they have been working in the said School and also received salary and other allowances from the State Exchequer. It is however contended that only on

account of the fact that Vidyalaya Seva Board did not make any recommendation or that their matters were not placed before the Vidyalaya Seva Board, the Respondents are not treating their services as having been confirmed in view of such conditions imposed in the order of adhoc approval of appointment in their cases by the Director, Secondary Education cum Joint Secretary, H.R.D Department, enclosed as Annexure-1 series in all these writ petitions. It is however submitted that Director, Secondary Education now enjoys the powers of Vidyalaya Seva Board, which is not functioning in the State of Jharkhand. He in fact granted confirmation to the services of number of teachers of Project Kartik Oraon High School, Manatu, Palamau as per the order at Annexure- 5 dated 22.7.2013 bearing memo no.

1853. It is submitted that such decision was taken pursuant to the direction passed in the case of the said persons by the learned Single Judge of this Court in W.P.S. 3032 of 2009. It is therefore submitted that there is no reason why the Director, Secondary Education should not take a decision in relation to the confirmation of services of these petitioners as only on account of such reason, time bound promotion and other promotional avenues have not been granted to the individual petitioners who have served in the same school since their appointment in 1982 and 1984 in individual cases. -4- Strong reliance has been placed upon the judgment rendered by this Court in the case of Niranjana Dubey & others Vrs. State of Jharkhand & others in W.P.S. No. 6083 of 2013 dated 7.4.2015 and in the case of Sidheshwar Singh & others Vrs. the State of Jharkhand & others in W.P.S. No.5798 of 2013 dated 27.4.2015. It is submitted that the petitioners school is also one of those which was covered under the decision of the State Government at Annexure-3 and appears at serial no.62. According to the petitioners cases of petitioner in one of the writ petitions referred to herein above i.e. Niranjana Dubey & others (supra) related to a school also covered under the Government's decision at Annexure-3 and appears at serial no. 37 under Gopikandar Block being High School, Karudih. Learned counsel for the petitioner therefore submits that the respondent- Director, Secondary Education should also take a decision in accordance with law relating to confirmation of their services as also claim for time bound promotion. Learned counsel for the Respondent- State submits that writ petitions have been taken up for the first time and instructions have not been

received as yet. It however appears that the these writ petitions have been filed in January 2014 and are pending since then. Learned counsel for the respondent State submits that if the petitioners approach the respondent no.3, Director, Secondary Education, H.R.D. Department, their grievances can be considered in accordance with law and in view of the judgment relied upon by the petitioners in one or the other cases referred to herein above. Having taken note of the aforesaid relevant material facts on record, it appears that on the similar issue relating to -5- confirmation of services of teachers of Project High School, Karudih, Santhal Pargana, Dumka, who had also worked and retired from that school and were paid all their service benefits and post retirement dues from the State Exchequer, a plea was taken by the respondent- State in cases of Niranjana Dubey & others (Supra) that their services were not duly approved by the Vidyalaya Seva Board or the competent authority i.e. the Director, Secondary Education, therefore the claim for promotion was being not entertained on the part of the respondent-State. Taking into account the relevant material facts of the said petitioners as also the same order at Annexure-5 dated 22.7.2013 passed by the Director, Secondary Education in the case of other similarly situated persons, it was felt that the Director, Secondary Education has been exercising such function relating to confirmation of services of Teachers after creation of successor State of Jharkhand in place of Vidyalaya Seva Board. The said writ petitions were therefore disposed of with a direction to the Director, Secondary Education, H.R.D. Department to take appropriate decision in relation to the confirmation of services of the said petitioners in accordance with law. Facts of the present cases as noticed in some detail in earlier part of the judgment also persuade this Court to issue similar direction upon the respondent No.3, Director, Secondary Education, Department of Human Resources Development, Government of Jharkhand to take appropriate decision in respect of the petitioners claim for confirmation of their services in accordance with law within a period of 12 weeks from the date of receipt of the copy of this order along with detailed representation on behalf of individual petitioners duly supported -6- with all necessary facts and documents . Needless to say that dependent upon such decision, the competent authority would also take a decision on the question relating to claim of financial up-gradation and other consequential benefits arising there from in individual cases.

The writ petitions are disposed of in the aforesaid manner. (Aparesh Kumar Singh, J.) A. Mohanty

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