

Niranjan Pradhan Vs. State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Aug-03-2015

Appellant : Niranjan Pradhan

Respondent : State of Jharkhand and Ors

Advocate for Pet/Ap. : Mr. Sanjay Kumar Pandey

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 1116 of 2010
--- Niranjan Pradhan, S/o Late Azambil Pradhan, an Assistant Teacher of Project Girls High School Goelkera, P.O. & P.S. - Goelkera, District - West Singhbhum and residing at Vill. - Kula, P.O. - Tunia, P.S. - Goelkera, Dist. - West Singhbhum
Petitioner Versus 1.The State of Jharkhand through its Secretary, Human Resources Development Department, Telephone Bhawan, Dhurwa, Ranchi 2.The State of Bihar through its Secretary, Human Resources Development Department, Govt. of Bihar, New Secretariat, Bailey Road, P.O. - GPO, P.S. - Secretariat, Patna, (Bihar) 3.The Director (Secondary Education), Human Resources Development Department, New Secretariat, Bailey Road, P.O. - GPO, P.S. - Secretariat, Patna, (Bihar) 4.The Director (Secondary Education), Human Resources Development Department, Telephone Bhawan, Dhurwa, Ranchi 5. The District Education Officer, West Singhbhum at Chaibasa Respondents --- CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY --- For the Petitioner : Mr. Sanjay Kumar Pandey, Advocate For the Respondents : Mr. Amit Kumar, J.

C. to G.P. - II --- 08/03.08.2015 In this writ application the petitioner has prayed for quashing that part of the report of the Three Man Committee in which recommendation of the service of the petitioner has been refused on the ground that he was appointed after selection of the school. A further direction has been sought for recognising the services of the petitioner and a further direction upon the respondents to pay the salary to the petitioner w.e.f. 01.01.1989 alongwith all consequential benefits.

2. The facts which arise from the averments made in the writ application are that in order to eradicate the educational backwardness from the society, the State Government had taken a decision to establish four high schools in each block of the State, out of which, one must be a girls high school. The State Government decided to introduce and regulate the said scheme, popularly known as Project Scheme, firstly in Chhotanagpur and Santhal Pargana Division. The scheme was notified by the State Government vide Government letter no. 1115 dated 27.05.1981. Following the policy decision, the State Government in the financial year 1981-82 selected 150 high schools in -2- different blocks of the State and most of the schools were running with public assistance. However, due to paucity of fund, no school was selected in the financial year 1982-83 and 1983-84 but in the financial year 1984-85, the State Government decided and selected 300 blocks to select or establish at least one girls high school in each of the said blocks in terms of letter no. 12(C) dated 25.01.1985. The State Government vide letter no. 108 dated 12.02.1985 selected 75 girls high schools in 75 blocks out of 300 selected blocks but since difficulties arose in selection of the school, as such a letter was issued by the Education Department bearing letter no. 142 dated 23.02.1985 constituting a three men committee in each district selected by the concerned District Magistrate with a direction to select the schools in their respective districts.

3. The local people of Goelkera Block in order to facilitate the education of girls established a girl high school which was also selected as one of the project schools by the three men committee. The Managing Committee of the Project Girls High Schools, Goelkera started functioning from 1984 and the petitioner was appointed by the Managing Committee on 30.12.1988 on the post of Science

Teacher. The State Government issued an order vide letter no. 142 dated 4.2.1989 providing payment of salary to teaching and non teaching staffs with effect from 1.1.1989, whose appointments have been made prior to selection of the school and certain conditions were stipulated in the said letter dated 4.2.1989. Several writ applications were preferred before the Hon'ble Patna High Court by teaching and non teaching staffs of the project schools for recognition of their services and for payment of salary. The validity of the letter no. 142 dated 4.2.1989 was also challenged but the same being dismissed, an appeal was preferred before the Hon'ble Supreme Court, which remitted the matter back to the Hon'ble Patna High Court for constituting a Full Bench and deciding all the issues relating to the Project Schools. Full Bench passed an order on 7.12.1999. The State of Bihar went in appeal in Civil Appeal No. 6626-6681/2001 before the Hon'ble Supreme Court, in which specific direction was given that the committee shall also deal with all -3- such individual cases of the appellants in terms of the direction at para 35 in the judgment of the Hon'ble Patna High Court.

4. Heard Mr. Sanjay Kumar Pandey, learned counsel for the petitioner and Mr. Amit Kumar, learned J.

C. to G. P. - II.

5. Mr. Sanjay Kumar Pandey, learned counsel for the petitioner has submitted that the petitioner was selected by the Managing Committee and a letter of appointment was also issued on 27.12.1988. It has been submitted that at the time of appointment the qualification of the petitioner was B. Sc. but subsequently, in the year 1996 he had obtained a educational qualification with respect to his training. Learned counsel for the petitioner has submitted that the Screening Committee had considered the case of the petitioner on the assumption that the petitioner was appointed on 15.10.1992 which was after more than seven years from the date of selection of the Project girls High School, Goelkera by the State Government. It has also been submitted that admittedly the petitioner was appointed on 30.12.1988 and the cut off date which was prescribed for selection was the submission of the report of the Screening Committee. It has further been submitted that the similar circumstance in the case of Deenanath Ram & Anr. v.

State of Jharkhand & Ors. in W. P. (S) No. 3450 of 2011 the report of the Three Men Committee was quashed and a direction was issued to pass order of regularization/recognition of the service of the petitioner in the said case.

6. Mr. Amit Kumar, learned J.

C. to G. P. - II has submitted that since the petitioner was appointed after the project school was selected by the Government the Three Men Committee had rightly rejected the claim of the petitioner.

7. In the Full Bench Judgment of the Hon'ble Patna High Court in the case of Project Uchcha Vidyalaya Shikshak Sangh vs. State of Bihar & Ors. while deciding the contentious issue with respect to fixing cut off date for possessing the requisite qualification, it was held as follows:-

3. In my view, facts of the present cases are completely different from those before the apex court in the above mentioned cases. That apart, as noticed above, similar question was answered by the Full Bench of this Court in the case of Ram Naresh Prasad Nirala Vs. State of Bihar and others -4- (Supra) as stated above. It was held that a teacher, who was not trained on the date of report of the Special Board cannot claim to be considered for absorption in Government service on the ground of having subsequently acquired requisite qualification. True it is, the aforesaid case was in relation to a teacher of nationalised High Schools, but certainly ratio of that case regarding scope of untrained teachers in the matter relating to absorption/regularisation of service in the Project Schools can also be held relevant. Hence, for the reasons stated above, I hold that cut off date for possessing the minimum qualification shall be the date on which the reports were submitted by the Screening Committee.

8. Therefore, the cut off date which was fixed by the Full Bench was the date on which the report was submitted by the Screening Committee.

9. The aforesaid judgment of the Full Bench was challenged by the State of Bihar in a batch of cases in Civil Appeal No. 6626-6681 of 2001 whereby certain directions were given and the Committee was empowered to deal with all such

individual cases as has been directed in Paragraph 35 of the judgment of the Full Bench. It is not in dispute that in terms of the Memo No. 2743 dated 06.10.2012 for the purposes of recognition/regularization of the services of the teachers either trained or untrained the cut off date for such selection was fixed as 04.02.1989. That would in effect mean that the petitioner having been appointed w.e.f. 30.12.1988 comes within the zone of consideration as enumerated in the said letter dated 06.10.1992. The report of the Three Men Committee with respect to consideration of claim of the petitioner has relied upon a fictitious date of 15.10.1992 as the date of the appointment of the petitioner. The respondents in their counter affidavit have not disputed the fact that the petitioner was appointed on 30.12.1988. The Three Men Committee had rejected the claim of the petitioner on the ground that the petitioner was appointed after seven years from the date of selection of the project school by the Government. This finding of the Three Men Committee is contrary to the Memo No. 2743 dated 06.10.1992 which has specifically fixed 04.02.1989 as the cut off date for consideration of regularization/recognition of the service of a teacher in project school -5- irrespective of the fact as to whether the concerned teacher is trained or untrained. The Three Men Committee has completely overlooked the fact that the petitioner had obtained the qualification of teaching prior to the report of the Screening Committee. In Deenanath Ram & Anr. v. State of Jharkhand & Ors. in W. P. (S) No. 3450 of 2011 in similar circumstances wherein the petitioners were appointed after the project school was selected by the Government and had obtained the training prior to the submission of report of the selection committee the writ application was disposed of quashing the report of the Three Men Committee and subsequent thereto the services of the petitioner in the said case was regularized/recognised. The report of the Three Men Committee so far as the petitioner is concerned, is apparently illegal, arbitrary and as has been passed on non-consideration of the relevant facts and materials pertaining to the case of the petitioner.

10. In such circumstances, therefore, that part of the report of the Three Men Committee (Annexure -

13) affecting the petitioner is, hereby, quashed and set aside and the respondents are directed to pass an order for regularization/recognition of the services of the petitioner in view of the fact that the petitioner had obtained the qualification of training much prior to the report submitted by the Screening Committee. The respondents shall also consider the consequential benefits payable to the petitioner in terms of the letter dated 04.02.1989 by taking into consideration the fact that the similarly situated persons have been given the benefits of the same in the case of Sukhdeo Gope v. State of Jharkhand & Ors. in W. P. (S) No. 5161 of 2009 and Deenanath Ram & Anr. v. State of Jharkhand & Ors. in W. P. (S) No. 3450 of 2011.

11. This writ application is allowed in terms aforesaid.

12. Pending I.A.s, if any, shall also stand disposed of. (R. Mukhopadhyay, J.)
Umesh/-

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