

Smt Deomani Vs. Human Resource Development

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Court : Jharkhand

Decided On : Sep-14-2016

Appellant : Smt Deomani

Respondent : Human Resource Development

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 5994 of 2013 With W.P. (S) No. 1512 of 2014 With W.P. (S) No. 3506 of 2014 In W.P.(S) No. 5994 of 2013 Smt. Deomani Petitioner Versus 1. The State of Jharkhand through its Principal Secretary, Human Resources Development Deptt. Government of Jharkhand, Ranchi.

2. The Principal Secretary, Human Resources Development Department, Government of Jharkhand, Ranchi.

3. The Director Secondary Education, Human Resources Development Department, Government of Jharkhand, Ranchi.

4. The Regional Deputy Director of Education, Palamau Division at Daltonganj, Palamau.

5. The District Education Officer, Garhwa. .. Respondents. In W.P.(S) No. 1512 of 2014 Smt. Sameri Hansda Petitioner Versus 1. The State of Jharkhand through the Principal Secretary, Human Resources Development Department, Ranchi.

2. The Director (Secondary Education), Human Resources Development Department, Ranchi.

3. The Regional Deputy Director of Education, Dumka Division, Dumka.

4. The District Education Officer, Dumka. .. Respondents In W.P.(S) No. 3506 of 2014 Smt. Tapati Mishra Petitioner Versus 1. The State of Jharkhand through its Secretary, Human Resources Development Department, Ranchi.

2. The Director (Secondary Education), Human Resources Development Department, Ranchi.

3. The Regional Deputy Director of Education, Kolhan Division, Chaibasa, West Singhbhum.

4. The District Education Officer, Chaibasa. .. Respondents - ----- CORAM : HONBLE MR. JUSTICE H. C. MISHRA ----- For the Petitioners : Mr. Sanjay Kumar Pandey, Advocate (in all cases) Mr. Anjana Kumari, Advocate Mr. Gopal Nand Mishra, Advocate For the State of Jharkhand : J.C. to G.P.-II ----- 7/ 14.09.2016 As common questions are involved in all these writ applications, they are heard together and disposed of by this common order. -2- 2. Heard learned counsel for the petitioners and the learned counsel for the respondent State.

3. The petitioners were appointed as Assistant Teachers by the Managing Committees of the private high schools, which were selected and taken over as Project High Schools, by the State Government, for execution of the scheme to provide four high schools in each block of the districts, out of which, at least one should be Girls High School. All the petitioners, being the ladies, were appointed as Assistant Teachers in between the year 1983-85 and the petitioners are claiming recognition / absorption of their services with effect from 1.1.1989, in view of the letter No. 142 dated 4.2.1989, issued by the unified State of Bihar, in the Department of Human Resources and Development, relating to the appointment of the teachers in the Project High Schools.

4. The matter of recognition / absorption of the teachers of such Project High Schools was considered by the Full Bench of Patna High Court in Project Uchcha

Vidyalaya shikshak Sangh Vs. the State and Others, and analogous cases, as reported in 2000(1) PLJR287 and the direction was given to the State Government to examine the claims of the teachers for recognition / absorption of their services in their respective schools. Against the decision of the Full Bench of Patna High Court, the State of Bihar preferred Civil Appeal Nos. 6626 to 6681 of 2001 in the Supreme Court of India, State of Bihar and Ors. Vs. Project Uchcha Vidyalay Sikshak Sangh and Ors., reported in 2006(2) JLJR (SC) 57, wherein the Honble Apex Court directed the Chief Secretary of the unified State of Bihar to constitute a Three Men Committee comprising of two officers and one educationist of repute and / or a retired judicial officer to examine the individual cases of teaching and non-teaching staff of the selected Project High Schools for their regularization / absorption in services.

5. Pursuant to the decision of the Honble Apex Court, Three Men Committee was constituted and the said Committee gave its recommendation with respect to the petitioners also. So far as the petitioners are concerned, it is stated in the recommendation of the Three Men Committee that these petitioners, though were appointed by the Managing Committee of their respective Schools, but they are still untrained, and accordingly, their services are not fit to be recognized.

6. The petitioner, Smt. Sameri Hansda had also moved this Court earlier in W.P(S) No.7625 of 2011, which was disposed of by order dated 22.7.2013 directing the Director, Secondary Education, Human Resources Development Department, Government of Jharkhand, to consider her claim -3- and pass appropriate order in accordance with law. Pursuant to the said order, the order contained in Memo No. 3054 dated 03.12.2013 has been passed by the respondent No.2, Director, Secondary Education, Human Resources Development Department, Government of Jharkhand, again rejecting the claim of the petitioner on the same ground that she had not attained the qualification of training. This order has also been challenged by the petitioner, Smt. Sameri Hansda in her writ application, being W.P.(S) No.1512 of 2014.

7. Learned counsel for the petitioners has drawn the attention of this Court towards the letter No. 142 dated 4.2.1989, issued by the unified State of Bihar, in

the Department of Human Resources and Development, relating to the appointment of the teachers in the Project High Schools, which has been brought on record in these writ applications. It is stated in the said letter that the minimum qualification for appointment of the teachers shall be Graduate Trained, but in case of ladies and the candidates belonging to Schedule Castes and Scheduled Tribes categories, if the trained teachers are not available, the services of the untrained teachers may also be recognized in the pay scale of Graduate Untrained teacher, but thereafter, they shall have to complete their training within the period of three years and the State Government shall make necessary arrangements for their training. It is the submission of learned counsel for the petitioners that in view of the express provision of recognising the services even of untrained teachers in case of ladies, Schedule Castes and Scheduled Tribes candidates, the denial of the claim of the petitioners by the Three Men Committee is absolutely illegal and it is a fit case, in which, the services of the petitioners, who are ladies, should be regularized / absorbed.

8. Learned counsel for the petitioners has further brought on record the order, passed by the Director, Secondary Education (Now the Department of School Education and Literacy), Government of Jharkhand, Ranchi, as contained in Memo No. 3245 dated 1.12.2015, whereby in the matter of a lady candidate, who was also not having the required qualification of training, her service has been approved with effect from 1.1.1989 in Graduate Untrained pay scale, in view of the letter of the State Government bearing No. 142 dated 4.2.1989 discussed above, making provision for recognition / approval of the services of the lady candidates and the candidates belonging to S.C. / S.T. categories, even if they are untrained.

9. Learned counsels for the State on the other hand, have opposed the prayer and submitted that the case of petitioners have been considered by the Three Men Committee, constituted under the direction of the Hon'ble Supreme Court of India, which has found that the services of petitioners are -4- not fit to be recognized / approved in view of the fact that the petitioners are not having the qualification of training. Learned counsels for the State have, accordingly, submitted that in view of the fact that the petitioners are untrained teachers, their claims have rightly been denied by the Three Men Committee, constituted pursuant to the order of the

Honble Apex Court, as in spite of lapse of long years, the petitioners are still untrained.

10. Having heard learned counsels for the parties and upon going through the record, I find that the letter bearing No. 142 dated 4.2.1989, issued by the unified State of Bihar clearly provides for approval of services even of untrained teachers in case of ladies, and the candidates belonging to Schedule Castes and Scheduled Tribes categories, in absence of the availability of the trained teachers, but they have to obtain the training within the period of three years. The fact remains that in the similar circumstance, the order has been passed as late as even on 1.12.2015 by the Director, Secondary Education, Government of Jharkhand, giving approval to the service of a lady teacher, as Graduate Untrained teacher.

11. In view of the aforementioned discussions, the respondent State, particularly the Director, Secondary Education, Department of School Education and Literacy, Government of Jharkhand, is hereby, directed to grant recognition / approval to the services of the petitioners also, with effect from 1.1.1989 in Graduate Untrained pay scale, in view of the letter No. 142 dated 4.2.1989 issued by the unified State of Bihar, which has been followed by the Director, Secondary Education, while granting approval to the service of the similarly situated lady teacher vide order contained in Memo No.3245 dated 1.12.2015, if the cases of the petitioners are otherwise fit for being recognized / approved. Consequently, the order contained in Memo No.3054 dated 03.12.2013 passed by the respondent No.2, Director, Secondary Education, Human Resources Development Department, Government of Jharkhand, as contained in Annexure-1 to the W.P.(S) No.1512 of 2014, is hereby, quashed.

12. If it is found that the case of any of these petitioners is not fit for being recognized / approved for any other reason apart of their being untrained, the same shall be communicated to the respective petitioners within the same period.

13. All these writ applications are accordingly, allowed with the directions as above. (H. C. Mishra, J.) B.S/