

Pramod Kumar Vs. Human Resources Department

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Court : Jharkhand

Decided On : Nov-30-2016

Appellant : Pramod Kumar

Respondent : Human Resources Department

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 5299 of 2012
----- Pramod Kumar, son of Late Ram Chandra Sahu, resident of Village Baniyadih, P.O Baniyadih, P.S. Thakur Gangri, District: Godda. ... Petitioner Versus 1.State of Jharkhand, through Secretary, Human Resource Department, Government of Jharkhand, Project Building, P.O Dhurwa, P.S. Jagarnathpur, District Ranchi. 2.Director, Primary Education, Government of Jharkhand, Project Building, P.O Dhurwa, P.S. Jagarnathpur, District Ranchi. 3.Deputy Commissioner, Godda. 4.Deputy Development Commissioner, Godda District Welfare Officer, Godda. 5.District Education Officer, Godda. 6.District Superintendent of Education, Godda. Respondents ----- CORAM: HONBLE MR. JUSTICE PRAMATH PATNAIK ----- For the Petitioner : Mr. Kumar Vaibhav, Adv. For the Respondents : Mr. H.K. Mehta, A.A.G Mrs. Manjushree Patra, JC to AAG ----- C.A.V on 04 .07.2016 Delivered on 30/11/2016 Per Pramath Patnaik, J.: In the accompanied writ application, the petitioner has inter alia prayed for quashing resolution dated 24.05.2012 passed by the District Education Establishment Committee, Godda so far it relates to petitioner, whereby the petitioner has been terminated from the post of Assistant Teacher and further for

quashing memo dated 25.05.2012 by which the services of the petitioner has been terminated in compliance of resolution dated 24.05.2012 and also for quashing order dated 01.08.2012 passed by the Deputy Commissioner, Godda in Misc Petition No. 39 of 2011-12, by which the resolution dated 24.05.2012 passed by the District Education Establishment Committee has been confirmed and 2 further prayed for reinstatement of the petitioner in services with all consequential benefits.

2. The factual matrix, as revealed and stated in the writ application, in a nutshell is that the petitioner was appointed vide memo dated 24.05.1988 as Assistant Teacher in the Matric Trained Scale and he joined on 27.05.1988 in Middle School, Mohani, Podiyahat, Godda. It is averred that after rendering a considerable period of services in different school, a complaint was made by one Mangal Sah, a distant relative of petitioner, that actual name of petitioner is Jagdish Sah and he falsely claims himself to be Pramod Kumar. On the basis of this complaint, an enquiry was conducted, in which, the District Superintendent of Education, after issuing show cause to the petitioner, found the allegation to be false and baseless. On the same allegation, the said Mangal Sah, had also lodged an F.I.R being Thakurgangti P.S. Case No. 122 of 2007, in which, the police submitted final form on the ground that allegations made against the petitioner are false and further observed that the complainant, Mangal Sah, is a person of questionable character and he is not in good terms with the petitioner. Thereafter, the said Mangal Sah on the same allegation lodged a case before National Human Rights Commission, on account of which salary of the petitioner was stopped by the District Superintendent of Education, Godda vide memo dated 30.08.2010. Being aggrieved, the petitioner approached this Court by way of filing W.P. (S) No. 7098 of 2011, which was disposed of vide order dated 21.12.2011 with a direction to the respondents to decide the claim of the petitioner 3 by passing a speaking order. But surprisingly, after passing of the order, the District Superintendent of Education lodged another F.I.R being Lalmatia P.S. Case No. 06 of 2012, in which the police submitted again final form stating therein that the case lodged by the District Superintendent of Education is false and these allegations have already been investigated and came to an end with the same result. In the meantime, a departmental enquiry was also initiated against the petitioner for the same set of

allegations, in which, the petitioner submitted a detailed explanation. Thereafter, it is alleged that the enquiry was conducted behind the back of the petitioner and basing of that enquiry report, the disciplinary authority/the District Education Establishment Committee imposed the impugned punishment of dismissal from services vide resolution dated 24.05.2012, and accordingly memo dated 25.05.2012 was issued by District Superintendent of Education, Godda, by which services of the petitioner was terminated in compliance of resolution dated 24.05.2012. It has further been averred that the Deputy Commissioner, Godda by his order dated 01.08.2012 confirmed the resolution dated 24.05.2012 of the District Establishment Committee, however, directed the DSE, Godda to pay the salary till the date of his termination from services.

3. Learned counsel for the petitioner submitted that the respondents authorities have not taken into account the fact that the allegation on the basis of which the services has been terminated were earlier enquired into in a criminal case as well in a departmental enquiry and after thorough enquiry the competent 4 authority found the allegation to be false. It has further been submitted that even the departmental proceeding is fraught with procedural irregularities. The entire departmental enquiry has been done behind the back of the petitioner. It has further been submitted that even the enquiry report has not been supplied to the petitioner so as to enable the petitioner to defend his case, which caused great prejudice to the petitioner. It has further been submitted that initially the order of dismissal was not served upon the petitioner. Learned counsel for the petitioner further submits that allegation of impersonation cannot be sustained in law as well as in fact merely because there are two addresses available in the educational certificates of the petitioner.

4. Controverting the averments made in the writ application, learned counsel appearing for the respondents-State submitted that in pursuance to National Human Commission Case, departmental proceeding was initiated against the petitioner and accordingly the District Education Establishment Committee, Godda in its meeting dated 24.05.2012 arrived on final conclusion to set at naught the appointment of the petitioner as Assistant Teacher. It has further been submitted that to give effect the resolution dated 24.05.2012 of the District Establishment

Committee, Godda order dated 25.05.2012 was issued from the office of D.S.E., Godda whereby the services of the petitioner came to an end with immediate effect. It has further been submitted that in the order passed in review application, vide order dated 01.08.2015, the Deputy Commissioner, Godda confirmed the order passed by District Establishment Committee dated 24.05.2012 but make it clear to make payment to the petitioner of working period prior to 25.05.2015, if any. In this regard, it has specifically been averred in supplementary counter affidavit dated 20.01.2016 that petitioner is at liberty to approach the respondent-DSE, Godda for such claim, which shall be considered in accordance with law. However, in the same affidavit, it has further been stated that payment of salary w.e.f 25.05.2012 onwards is based upon a forged letter dated 21.12.2015 of the Block Development Officer, Boarijore and accordingly vide letter dated 13.01.2016, the DSE, Godda sought the base of issuance of the said letter, whereupon, the Block Development Officer, Boarijore responded vide letter dated 15.01.2016 that the alleged letter dated 21.12.2015 is forged one and it does not bear his signature. Learned counsel for the respondent further submitted that the petitioner by producing the certificate/school leaving certificate of another person has completed teachers training and thereafter used the same for securing employment. Hence, besides impersonation he has committed forgery to remain in employment.

5. Having heard learned counsel for the parties at length and on perusal of the record, I am of the considered view that the petitioner has been able to make out a case for interference for the following facts, reasons and judicial pronouncements: (a).Admittedly, initially, in the case at hand, on the allegation of impersonation a complaint was lodged by one Mangal Sah, a distant relative of the petitioner, upon which, a departmental proceeding was initiated, which was dropped on the ground that the allegations are false and in criminal case lodged against the petitioner, final form was submitted by the police stating that the case is mistake of fact and it was observed that the complainant-Mangal Sah is a fraudulent person. (ii).Subsequently, said complainant-Mangal Sah lodged a case before Human Rights Commission, whereupon again the matter, which was set at rest, was agitated by initiating another departmental proceeding on the similar allegation of impersonation besides lodging of another criminal case. In the criminal case, the

police again submitted final form. But, in the departmental proceeding, the charges levelled against the petitioner were found proved on the basis of report dated 19.12.2011 submitted by Headmaster of High School, Barhi, Hazaribagh stating therein that School leaving Certificate of the petitioner was forged one, which led to passing of impugned order. But from the materials available on record, it is manifest that the order suffers from the vice of infraction of principles of natural justice inasmuch as the petitioner has not been communicated all prejudicial papers i.e. enquiry report, which is basis of passing the impugned order, hence, the petitioner had no knowledge of any other material which persuaded the disciplinary in passing of impugned order of dismissal from services. (iii). Furthermore, the fact remains that the issue which has been set at rest has been raised after more than two and half decades and in the second round of departmental proceeding in which the petitioner has been found guilty is fraught with procedural irregularity and contradictory affidavits filed by the respondents, hence, the impugned punishment is vulnerable on that count.

6. On the cumulative effect of aforesaid facts, reasons and judicial pronouncement and as logical sequitur to the discussion made in the foregoing paragraphs, the impugned order dated 24.05.2012 passed by the District Education Establishment Committee, Godda, so far it relates to petitioner, whereby the petitioner has been terminated from the post of Assistant Teacher and memo dated 25.05.2012 by which the services of the petitioner has been terminated in compliance of resolution dated 24.05.2012 and order dated 01.08.2012, by which resolution dated 24.05.2012 was confirmed, are hereby quashed and set aside with liberty to the respondents-authority to start a de novo enquiry from the stage of supply of copy of enquiry report and take a concrete decision thereof, after affording reasonable opportunity of being heard, communicating the same to the petitioner at an earliest preferably within a period of four months from the date of initiation of such de nove proceeding, if any.

7. With the aforesaid observations and directions, the writ petition stands disposed of. (Pramath Patnaik, J.) Alankar/-