

(2009) 02 JH CK 0026

Jharkhand High Court

Case No: None

Amit Kumar Dhar

APPELLANT

Vs

Housing and Urban
Development Corporation Ltd.
and Another

RESPONDENT

Date of Decision: Feb. 10, 2009

Acts Referred:

- Constitution of India, 1950 - Article 14, 19, 21

Citation: (2009) 2 JCR 419

Hon'ble Judges: Ajit Kumar Sinha, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Ajit Kumar Sinha, J.

The present writ petition has been preferred for an appropriate writ, order or direction in the nature of certiorari for quashing the office order No. 220 dated 24.02.2003 issued by the respondent No. 1 (Annexure-7) whereby and whereunder the petitioner's appointment in the post of stenographer, Gr.III(Hindi) has been cancelled on the alleged ground that the examination, "Sahityalankar" from the Hindi Vidyapith, Deoghar passed by the petitioner is not equivalent to Graduation without any enquiry and verification which has caused serious prejudice to the petitioner. The further prayer is for issuance of any other writ in the nature of mandamus directing/commanding the respondents not to give effect to the aforesaid order dated 24.02.2003 (Annexure-7) and to reinstate the petitioner with all consequential benefits.

2. The facts in brief are set out as under:

According to the petitioner, he passed "Sahityalankar" examination with English in the year 2001 from Hindi Vidyapith, Deoghar and was accordingly granted "Sahityalankar" Certificate. An advertisement was issued in the month of November, 2002 in the daily news paper "Hindustan" for appointment in the various posts including stenographer Grade III (Hindi) in a public sector undertaking. The petitioner, being fully eligible, applied for the said post and upon due process of selection was finally appointed in the post of stenographer, Grade III (Hindi) on 7.1.2003 and was directed to join on or before 27.1.2003 and to report for duty before the respondent No. 2 at Ranchi on or before 7.2.2003. Petitioner immediately on receiving appointment letter gave his joining on 17.1.2003 and was working to the full satisfaction of the respondent. However, on 3.2.2003 the Senior Law Officer, HUDCO asked the petitioner for producing recognition certificate with regard to "Sahityalankar" from Hindi Vidyapith, Deoghar as an equivalent to graduation.

3. The Counsel for the petitioner submits that the petitioner with his explanation, submitted the notification for recognition from the Government of Bihar, contained in Memo No. 81R 1-30.3/84 Ka 541 Patna dated 11.01.1991 (Annexure-8/2) in which it clearly mentioned that the Government of Bihar has given permanent recognition of "Sahityalankar" as equivalent to Bachelor of Arts with the condition that one subject must be English. The petitioner in his explanation clearly stated that he has passed in English subject which will be evident from the marks sheet issued by Hindi Vidyapith, Deoghar. He further submits that the respondent No. 1 without considering the explanation of the petitioner and the Government notification for recognition (Annexure-6 series) cancelled the appointment letter No. F.5(49)/2002 dated 07.01.2003 alleging that the examination passed is not equivalent to graduation vide its impugned office order No. 220, dated 24.02.2003 which is sought to be challenged in this writ petition.

4. The main contention raised by the Counsel for the petitioner is that the entire action is arbitrarily, illegal and malafide apart from being unconstitutional and violative of Article 14, 19 and 21 of the Constitution of India. It has also been contended that "Sahityalankar" from Hindi Vidyapith, Deoghar is equivalent to graduation as per the recognition given vide Notification of Government of Bihar, dated 11.1.1991 and the Government of India, dated 18.2.1970.

5. In reply, the Counsel for the respondent submits that the petitioner was not eligible since the Hindi Directorate vide its letter dated 19.2.2003 intimated that "Sahityalankar" examination of Hindi Vidyapith, Deoghar was valid only for the knowledge of Hindi and thus, the degree awarded by the said institution was not equivalent to the graduation level degree. It is further submitted that Association of Indian Universities vide letter No. 686 dated 1.7.2003 has also intimated that the "Sahityalankar" examination of Hindi Vidyapith, Deoghar, Bihar (Now in Jharkhand) is not equated with the degree examination and as per the Government of India (Ministry of Human Resources Development) Press Notification dated 5.5.1988, the

recognition of its examination is valid/restricted to the subject of Hindi only.

6. I have considered the pleadings and rival contention. In the instant case, admitted fact remains that an advertisement was published in the news paper. The relevant portion is quoted as under:

Stenographer (Grade-III) (Hindi) (UR Category)

Graduate with speed of 100 wpm in stenography and 40 wpm in Hindi typing with proficiency in computer operations. Preference may be given to the candidates knowing English Shorthand and Typing.

7. After considering the eligibility criteria, the petitioner was permitted to undergo the selection process and upon being selected he was given appointment letter.

8. Be that as it may, it can always be said if the certificate given does not fulfills the criteria the same can certainly be looked into. However, a query was raised with regard to the production of the recognition certificate and the petitioner immediately gave the reply and enclosed the certificate issued by the Registrar(Kulsachiv) Hindi Vidyapith, Deoghar dated 28.2.2003 who confirrwsd that "Sahityalankar" from Hindi Vidyapith examination was equivalent to B.A. degree. It also indicated that it was duly recognized both by the State of Bihar as well as the Central Government vide its Notification dated 18.2.1970 and the order dated 11.1.1991 was also enclosed from the Ministry of Personnel and Administrative Reforms, Government of Bihar wherein it was specifically mentioned at "Clause 1-Ga" that "Sahityalankar" was equivalent to B.A. subject to the fact that the candidate has also passed "English" subject. The petitioner has also enclosed the mark-sheet issued wherein he has passed the examination in second class including English subject and thus, he was fully eligible and qualified.

9. Even the contention raised by the respondents referring to a letter dated 1st July, 2003 is misplaced since it is subsequent to the selection process and not prior and even this letter is in the context of parity vis-a-vis "Sahityalankar" examination of Hindi Vidyapith, Deoghar and even this letter shows "Sahityalankar" examination of Hindi Vidyapith, Deoghar may be considered equivalent to Bachelor Degree. However, Notification and the recognition as mentioned by the Registrar and the Government of India and the Ministry of Personnel and Administrative Reforms clearly indicates that it was duly recognized and equivalent to graduate subject to one condition that the candidate must have passed English subject.

10. In the aforesaid facts and circumstances of the case, petitioner is eligible and possesses the qualification requisite as per advertisement. Thus, the petitioner is fully entitled to be considered for appointment to the post of Stenographer, Grade-III (Mindi).

11. Considering the facts and circumstances of the case, this writ petition is allowed without any order as to cost.