

(2013) 08 JH CK 0026

Jharkhand High Court

Case No: Writ Petition (S) . No. 5177 of 2011 with I.A. No. 5144 of 2013

Rajendra Kumar Samad

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: Aug. 1, 2013

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Advocate: Sanjay Kumar Pandey, for the Appellant;

Final Decision: Disposed Off

Judgement

Narendra Nath Tiwari, J.

In I.A. no. 5144 of 2013, the petitioner has prayed for disposal of W.P.(S) No. 5177 of 2011 in terms of the order dated 15th September, 2011 passed in W.P.(S) No. 5658 of 2009 (Om Prakash Gope Vrs. State of Jharkhand & Ors.). It has been submitted that the facts and the issue in the instant case are almost similar to the case of Om Prakash Gope (supra) and the same may be disposed of in terms of the order passed in the said case.

2. Learned J.C. to S.C. II, appearing on behalf of the respondents, has accepted the said position and submitted that the writ petition can be disposed of in terms of the order passed in Om Prakash Gope (supra).

3. In the writ petition, the petitioner has prayed for a direction on the respondents to take decision regarding approval/recognition of the services of the petitioner as Assistant Teacher in Project Girls High School, Kharsawan, as has been done in the cases of other similarly situated persons. The petitioner has also prayed for a direction on the respondents to pay salary and other consequential benefits to the petitioner from 1st January, 1989 like other similarly situated persons.

4. It has been stated that the petitioner was appointed as Assistant Teacher by Managing Committee in the said school on 23rd May, 1984. The petitioner,

subsequently, completed teachers training from Sister Nivedita College at Kolkata in August, 1993.

5. In the year 1984-85, the Government had decided to take over 300 Project Girls' High Schools. The petitioner's School was also taken over in 1985.

6. For the purpose of regularization/approval of the services of the teachers and non-teaching staff of those Schools, a Three Men Committee was constituted. The said Three Men Committee scrutinized the services of the teachers of the school for the purpose of approval, but the petitioner's service was not approved for the reason that the petitioner got teachers training from the college, which was not recognized under the provisions of National Council for Teachers Education Act, 1993 ("NCTE Act, 1993" for short).

7. Learned counsel for the petitioner submitted that the petitioner got his teachers training certificate in August, 1993, whereas NCTE Act, 1993 came into force from July, 1995.

8. Learned counsel for the petitioner further submitted that admittedly NCTE Act was not in existence when the petitioner had got teachers training from Sister Nivedita College, Kolkata and there was no defect in his training certificate. He further submitted that the petitioner was duly appointed by the Managing Committee and he has all eligibility and qualification for being appointed as Assistant Teacher in the High School. Denial of recommendation for approval of Three Men Committee is, therefore, arbitrary and discriminatory.

9. Learned counsel submitted that services of one Om Prakash Gope was also not regularized for same reason that he had got training certificate from the said College in 1994 i.e. Sister Nivedita College at Kolkata, which was not recognized by the NCTE.

10. Said Om Prakash Gope, being aggrieved by the denial of approval of the Three Men Committee, had filed writ petition being W.P.(S) NO. 5658 of 2009. This Court after hearing the parties at length and considering all the relevant aspects held that since the petitioner had cleared his teachers training certificate examination on 16th March, 1994, prior to enforcement of the Act, 1993 in July, 1995, denial of the petitioner's recommendation by Three Men Committee was arbitrary. The report was quashed and the respondents were directed to recognize the services of the petitioner and pass necessary order to that effect. The petitioner was also held entitled for all consequential benefits including salary.

11. Learned J.C. to S.C. II, appearing on behalf of the respondents, admitted that the case of the petitioner is covered by the decision of this Court in the case of Om Prakash Gope (supra). The petitioner has also completed his training from Sister Nivedita College, Kolkata prior to coming into force of the said NCTE Act, 1993 and that the writ petition can be disposed of in terms of the said order.

12. Considering the said submissions and the facts and circumstances, this writ petition as well as I.A. No. 5144 of 2013 are disposed of in the light of the order dated 15th September, 2011 passed in Om Prakash Gope (supra), quashing the refusal of petitioner's recommendation by Three Men Committee (Annexure-9) and directing the Respondent No. 2, who is said to be the competent authority, to issue appropriate order recognizing the services of the petitioner as Assistant Teacher in Project Girls High School, Kharsawan and pay all consequential benefits including arrears of his salary, within six weeks from the date of receipt/production of a copy of this order. If the admitted amount/arrears is not paid within the said period, the petitioner shall be entitled to get interest @ 10% per annum from the date the amount found payable till the date of final payment.