

(2012) 01 JH CK 0050**Jharkhand High Court****Case No:** Writ Petition (S) No. 2450 of 2005

Rudra Narayan Mandal

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Jan. 9, 2012**Citation:** (2012) 3 JCR 338**Hon'ble Judges:** Dhirubhai Naranbhai Patel, J**Bench:** Single Bench**Advocate:** A.K. Das, for the Appellant; A.K. Jha, for the municipality, for the Respondent**Judgement**

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D.N. Patel, J.

Learned Counsel for the petitioner submitted that the petitioner was appointed as Vaccinator on 8th February, 1980 on a condition that he should get training of Vaccination within a period of two years. It is also submitted by the Learned Counsel for the petitioner that the petitioner was always ready to get such training and for the same, he applied for leave at the relevant time to the State of Bihar, which was granted and thereafter, the training was started and completed as per the requirement of appointment. Ultimately, the services of the petitioner was regularized, but, the petitioner was not considered for promotion and therefore, one writ petition bearing W.P.(S) No. 22 of 2004 was preferred by the petitioner, which was decided vide order dated 9th January, 2004, whereby, the representation was allowed to be preferred and was directed to be decided by the respondents. Nothing having taken place, one contempt petition was preferred and instead of deciding the representation, the services of the petitioner was terminated with effect from 1st October, 2004 and therefore, the order at Annexure 7 dated 1st October, 2004, which is the termination order, is under challenge in this writ petition. Learned Counsel for the petitioner submitted that the order of termination is based upon two misconception of facts, namely, (i) the petitioner has not taken any training for the post of Vaccinator, and (ii) the date of birth revealing in the

certificate for vaccination and the assessing certificate are different and due to these discrepancies in the date of birth, the services of the petitioner has been terminated.

2. Learned Counsel for the petitioner further submitted that none of the grounds is factually true and correct i.e. verification by the respondents about the date of birth of the petitioner and now correct verification has been given from the said Sanskrit Education Board, Bihar, which is at Annexure 11 to the rejoinder affidavit, filed by the petitioner, which is dated 28.5.2008 and so far as Vaccination Certificate is concerned, now the verification has been received by the respondents from the concerned authority, which is at Annexure 10 to the rejoinder affidavit, filed by the petitioner, dated 30th March, 2009. These two Annexure reveal that the facts, which are stated in the order of termination, are incorrect and, therefore, let the matter be remanded to respondent No. 3 to take a fresh decision, in the light of Annexures 10 and 11, which are annexed with the rejoinder affidavit, filed by the petitioner.

3. Learned Counsel for respondent Nos. 2 and 3 submitted that there is a discrepancy in the date of birth of the petitioner. Looking to the Vaccination Certificate and the assessing certificate, the difference is of nine years; one certificate indicates the date of birth of the petitioner as 1st March, 1960 whereas in the assessing certificate, the date of birth of the petitioner Is 1st March, 1969 and moreover, the petitioner has not secured the Vaccination training course. Nonetheless, if the petitioner is relying upon Annexures 10 and 11, which are annexed with the rejoinder affidavit, the respondents will decide the case of the petitioner afresh in the light of these Annexure, within the stipulated time given by this Court, in accordance with law.

4. Learned Counsel for the State adopts the arguments, canvassed by the Learned Counsel for respondent Nos. 2 and 3.

5. Having heard Learned Counsel for both the sides and looking to the facts and circumstances of the case, it appears that the dispute between the parties is about the training, obtained by the petitioner for the post of Vaccinator, as it is alleged by the petitioner that he has already taken training whereas the respondents are alleging that the petitioner has not taken training, which is the minimum requisite qualification for getting the said post. There is also a dispute about the correctness of the date of birth of the petitioner. But, now looking to Annexures 10 and 11 of the rejoinder, filed by the petitioner, there is enough clarification on these two aspect of the matter. Both these certificates are of the year, 2008 and 2009 at Annexure 10 and Annexure 11 respectively whereas the impugned order has been passed on 1st October, 2004. Thus, the respondents have now received Annexure 10 and Annexure 11 and, therefore, in the interest of justice, I hereby remand the matter for its fresh decision to respondent No. 3, who will take a decision afresh, in accordance with law, rules, regulations, policies and the Government enforceable orders and also keeping in mind Annexures 10 and 11, which are dated 30th March, 2009 and 20th May, 2008 respectively. These two documents may be properly

verified by respondent No. 3 from where they have been issued and upon verification, a fresh order will be passed by respondent No. 3. Thus, the impugned order at Annexure 7 to the memo of petition is hereby quashed and set aside and the matter is remanded to respondent No. 3 for taking a fresh decision within a period of twelve weeks from the date of receipt of a copy of the order of this Court. The petitioner shall cooperate with the hearing with respondent No. 2. If the decision is taken in favour of the petitioner, consequential benefits will be extended to the petitioner within a further period of four weeks thereafter. The writ petition is, accordingly, disposed of, with the aforesaid observations/directions.