

Rudra Narayan Mandal Vs State of Jharkhand and Others

Court: Jharkhand High Court

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

@JUDGMENTTAG-ORDER

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.