

(2016) 08 JH CK 0049

JHARKHAND HIGH COURT

Case No: W.P (S) No. 6062 of 2014

Vivekanand Singh

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision: Aug. 9, 2016

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2016) 4 JLJR 580

Hon'ble Judges: Mr. H.C. Mishra, J.

Bench: Single Bench

Advocate: Mr. Bhawesh Kumar, S.C II and Mr. Rahul Kamlesh, J.C to S.C II, for the Respondent; M/s. Sanjay Kumar Pandey and Anjana Kumari, Advocates, for the Petitioner

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Mr. H.C. Mishra, J. - Heard the learned counsel for the petitioner and the learned counsel for the State.

2. The petitioner has filed this writ application, challenging the order contained in Memo No.1974 dated 20.10.2014 passed by the respondent No.2, Director, Secondary Education, Jharkhand, whereby, the claim of the petitioner for recognising his service with effect from 2.1.1985 in Project Girls High School, Markachcho, in the District of Koderma, has been rejected by the respondent No.2.

3. The facts of this case lie in a short compass The petitioner claims to be appointed as clerk by the then Managing Committee of the aforesaid school, on 2.1.1985, while the school was a private school. The said school was selected for being taken over on 23.5.1985, and was accordingly, taken over by the State Government. It is the claim of the petitioner that the petitioner marked his attendance in the attendance register of the school till 21.4.2014 and thereafter he is marking his attendance

before the In-charge Principal of the school.

4. The petitioner had earlier moved this Court in W.P (S) No.2535 of 2013, which was disposed of by order dated 24.10.2013, as contained in Annexure-10 to the writ application, wherein this Court noted the fact that the petitioner had already given a representation before the Director, Secondary Education on 9.4.2011, which had not been decided as yet. This Court accordingly, directed the Director, Secondary Education to decide the representation of the petitioner by a reasoned order. Pursuant thereto, the petitioner was given the personal hearing by the respondent No.2, the Director, Secondary Education, Jharkhand, on 26.9.2014 and the District Superintendent of Education, Koderma, also heard in the matter. After hearing both sides, the reasoned order has been passed by the Director, Secondary Education, as contained in Memo No. 1974 dated 20.10.2014, which has been brought on record as Annexure-1, and is under challenge in this writ application. The order clearly shows that though the petitioner claimed to be appointed by the erstwhile Managing Committee of the school on 2.1.1985, one Basudeo Hazam was appointed in the school by the then District Superintendent of Education, Hazaribagh, on 13.3.1989 and he gave his joining in the school on the post of clerk on 14.3.1989. The said Basudeo Hazam worked in the school throughout and he ultimately retired from service on 31.8.2012. It is also stated in the impugned order as contained in Annexure-1, that the Three Men Committee constituted pursuant to the order passed by the Hon"ble Apex Court, had also rejected the case of the petitioner. Accordingly, the claim of the petitioner for approval of his service as clerk in the said school was rejected by the respondent No.2.

5. Learned counsel for the petitioner has submitted that the impugned order passed by the respondent No.2 is absolutely illegal and bad in the eyes of law, inasmuch as the petitioner was appointed by the erstwhile Managing Committee of the school on 2.1.1985 and he is still working in the school. It is the claim of the petitioner that the engagement of the said Basudeo Hazam was on the basis of forged documents and accordingly, the claim of the petitioner has been illegally rejected by the respondent No.2. Learned counsel also submitted that in similar circumstances, the orders have been passed by this Court in W.P (S) No.4219 of 2011 **Lakpat Yadav v. State of Jharkhand** Reported in 2016 (1) JLJR 189. directing the respondent No.2, the Director, Secondary Education, Government of Jharkhand, for considering the cases of the teachers in similar circumstances. Learned counsel accordingly, submitted that it is a fit case, in which, the directions be given to the respondents State to recognise the services of the petitioner in the post of clerk since 2.1.1985, i.e., since the date of the initial appointment by the erstwhile Managing Committee of the school, irrespective of the fact that one person was allowed to work in the school at the place of the petitioner, as he was allowed to work on the basis of forged documents.

6. Learned counsel for the State, on the other hand, has opposed the prayer, submitting that pursuant to the earlier direction of this Court as contained in Annexure-10 to the writ application, a reasoned order has already been passed in the case of the petitioner, rejecting his claim and specifically stating that another person was working as clerk, and he had served the school throughout his career and has superannuated from the school on 31.8.2012. It is submitted that in that view of the matter, no direction can be issued for recognising the services of the petitioner in the school, as the very appointment of the petitioner is doubtful and his case was also rejected even by the Three Men Committee appointed by the Apex Court, which has been brought on record as Annexure-7.

7. Having heard the learned counsels for both sides and upon going through the record, I find that pursuant to the earlier direction of this Court as contained in Annexure-10 to the writ application, a reasoned order has already been passed by the respondent No.2 on 20.10.2014. The said reasoned order clearly shows that another person was working in the school since 13.3.1989 itself and he had retired from the school on 31.8.2012. The petitioner has approached this Court in W.P (S) No.2535 of 2013 after the retirement of the person working in the school.

8. In that view of the matter, the contention of the learned counsel for the petitioner that said person was engaged in the school on the basis of the forged documents, cannot be accepted at this stage, as that person had served in the school for his entire service career and has retired from the school on 31.8.2012. Even otherwise the case of the petitioner was also rejected by the Three Men Committee appointed by the Hon"ble Apex Court, to decide the issues relating to the Project Schools. The report of the Three Men Committee, which has been brought on record as Annexure-7, clearly shows that the matter of the petitioner was also considered by the Committee, and was rejected on the ground that there is only one sanctioned post of the clerk in the school, against which another person was working. As such I do not find any merit in the claim of the petitioner.

9. In view of the foregoing discussions, there is no merit in the writ application and the same is accordingly, dismissed.