

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**L.P.A. No. 411 of 2012**

Satya Deo Ram	...	...	Appellant
	Versus		
State of Jharkhand and others	...	...	Respondents

-----

**CORAM:**                    **HON'BLE THE CHIEF JUSTICE**  
                                  **HON'BLE MR. JUSTICE APARESH KUMAR SINGH**  
For the Appellant        : Mr. Sumeet Gadodia  
For the Respondents     : Mr. A. Allam, Sr. S.C. II

**Order No.12**

-----  
**Dated 29<sup>th</sup> November, 2013**

Heard learned counsel for the appellant as well as learned senior counsel appearing on behalf of the respondent- State.

The appellant is aggrieved by the judgment dated 5.9.2012 passed by the learned Single Judge in W.P.(S) No. 4311 of 2003 whereby the order dated 30.4.2003 giving charge of Officiating Principal to the appellant was quashed. The writ petitioner / respondent no. 5 herein had challenged the said order dated 30.4.2003 alleging that the writ petitioner being senior to the respondent no.5 i.e. appellant in the present case was being made to work under the present appellant as he had been given the charge of Officiating Principal of Government Polytechnic, Ranchi. Incidentally, during the pendency of the said writ petition, the writ petitioner was transferred to the Government Polytechnic, Kharsawan as In-charge Principal vide order dated 31.12.2008. However, subsequently by order dated 31.12.2010 he was again transferred back to the same Government Polytechnic, Ranchi as Lecturer wherein the present Appellant was working as Officiating Principal.

Learned Single Judge after hearing the learned counsel for the parties and after perusing the letter no. 7/V.V.R.-06/2004 Ka.442 dated 25.1.2006 observed that as per the said letter the Government has taken a decision to give charge of Principal to the senior most Lecturer. In such background, learned Single Judge found the subsistence of the impugned order dated 30.4.2003 against the Government Policy itself and, therefore, unsustainable in law. The writ petition was allowed by quashing the impugned order.

Learned counsel for the appellant, while assailing the impugned judgment *inter-alia* stated that the writ petition had been rendered infructuous during its pendency because of the transfer of the writ petitioner from the Government Polytechnic, Ranchi to Government Polytechnic, Kharsawan on 31.12.2008 itself. He was however transferred back on his own representation vide notification dated 31.12.2010. Therefore, the petitioner could not have complained of being made to serve under the junior. Writ petitioner's representation is annexed as Annexure-3 while the order of transfer is at Annexure-4 being notification No. 3569 to the instant appeal. Learned counsel for the appellant submits that the letter dated 25.1.2006 relied upon by the learned Single Judge also reveals that in the matter of even an in-charge working arrangement, seniority cum merit as well as Rules of reservation under the State Government were to be followed. It is submitted that the appellant is the senior most member of Scheduled Caste community in the existing teaching cadre in the Government Polytechnic, therefore, he is the fittest and competent person to be posted as In-charge Principal of the Government Polytechnic, Ranchi. However, the aforesaid aspect as contained in the letter dated 25.1.2006 has been overlooked by the learned Single Judge while quashing the arrangement under which the present appellant was given charge as Officiating Principal vide order dated 30.4.2003. In such circumstance, the impugned order is liable to be quashed.

From the submission of the learned counsel for the appellant and the respondent- State it appears that the respondent- State had also challenged the said impugned order in L.P.A. No. 489 of 2012. However, it further appears from perusal of the order dated 11.1.2013 passed in the said L.P.A, which is annexed as Annexure-A to the counter affidavit filed by the private respondent no.5 herein that the said L.P.A was dismissed with an observation that the matter is related to the transfer and posting only and of giving charge of the post of the Principal and that too relating to the period of the year 2003 and, therefore, the learned Single Judge has rightly set aside the impugned order

dated 30.4.2003. In such circumstance, the L.P.A was dismissed.

Learned counsel for the respondent- State submits that in the present L.P.A an interim order of status-quo was passed on 13.3.2013 and the appellant has continued in present place of posting. In such circumstances, the State is precluded from making any other arrangement.

Though, the respondent no. 5 has entered appearance through its counsel and has also filed counter affidavit but no one appears on his behalf today.

We have considered the arguments advanced by learned counsel for the appellant as well as learned counsel for the respondent- State and also gone through the relevant materials on record. It is not in dispute that the writ petitioner was senior to the respondent no.5 / appellant herein, who had been given charge of Officiating Principal at Government Polytechnic, Ranchi by the impugned order dated 30.4.2003. The petitioner may have been transferred by the order dated 31.12.2008 to Government Polytechnic, Kharsawan as In-charge Principal but was again transferred to Government Polytechnic, Ranchi as Lecturer on 31.12.2010. On perusal of the notification no. 3569 dated 31.12.2010 it appears that it was a case of transfer simplicitor. In any case, the arrangement of in-charge Officiating Principal undertaken by the impugned order dated 30.4.2003 had continued since then and after the writ petitioner was again transferred to the same Government Polytechnic, Ranchi he again was made to work under the present appellant, who was admittedly junior to him. In the aforesaid background, learned Single Judge, on perusal of the letter dated 25.1.2006, which is the policy of the State Government found that the said arrangement by which a junior person like respondent No. 5/ Appellant herein had been given charge of principal was against the Government policy itself as the writ petitioner was admittedly senior to him.

In the aforesaid background, we do not find any reason to interfere in the judgment rendered by the learned Single Judge dated 5.9.2012 by which the impugned order dated 30.4.2003 has been quashed. The consideration of

application of relevant reservation rules, however is an independent issue, which obviously cannot justify the issuance of the impugned order dated 30.4.2003, whereby inspite of the writ petitioner being senior to respondent no.5/ appellant herein the present appellant was given charge of the Officiating Principal of the Government Polytechnic, Ranchi. In such circumstance, the appellant is at liberty to raise the aforesaid grievance before the appropriate authority in accordance with law. However, no interference is required in the present appeal.

Accordingly, the instant L.P.A. is dismissed.

**(R. Banumathi, C.J.)**

**(Aparesh Kumar Singh,J.)**