

(2010) 04 JH CK 0029
In the Jharkhand High Court

Ajit Kumar

APPELLANT

Vs

The State of Jharkhand, Director General and Inspector
General of Police, Deputy Inspector General of Police
(Personnel) and Superintendent of Police

RESPONDENT

Date of Decision : 20-04-2010

Acts Referred:

Citation : (2010) 04 JH CK 0029

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—The petitioner being aggrieved against the order of his dismissal from service, has been repeatedly filing writ applications before this Court and the present writ application appears to be third one in sequence. Each time directions are given to the concerned authorities of the respondents to reconsider and pass appropriate order, the orders passed by the concerned authorities do continue to leave the petitioner still aggrieved.

2. The petitioner's grievance is against the impugned orders of the Disciplinary Authority as also that of the Appellate Authority and the Revisional Authority who, according to the petitioner, have conveniently omitted to consider the grounds of objection raised by the petitioner and have also ignored the findings of the Inquiry Officer which was in favour of the petitioner.

3. Learned Counsel for the petitioner explains that the charge against the petitioner was that he had suppressed his caste and by taking advantage of reservation pertaining to the Backward Class Category-1, he had obtained his appointment. This charge, according to the learned Counsel, was not found proved by the Inquiry Officer. Learned Counsel in this context, refers to the specific findings of the Inquiry Officer as contained in the Inquiry Report. Learned Counsel adds that the ground that the petitioner's height has measured as 179.4 cm and the candidates appointed in the Backward Class Category-2 had measured more height than the petitioner, is misleading and in fact, two

candidates namely, Anant Kumar Sharma and Ramesh Kumar, both of whom belonging to Backward Class Category-2 and whose height measured at 178.2 cm and 178.3 cm respectively, have been granted appointment, whereas the petitioner has been discriminated. Learned Counsel adds further that this specific aspect of the petitioner's ground, has not been considered by the concerned authorities of the respondents by referring to the actual facts, and as it appears from the counter-affidavit, a blunt stand has been taken by the respondents declaring the aforesaid persons as belonging to the Backward Class Category-1, though the fact is otherwise. Learned Counsel submits that without application of mind and without proper appreciation of the petitioner's ground with reference to the documents on record, the petitioner's prayer for his reinstatement has been arbitrarily rejected.

4. Counsel for the respondents, on the other hand, would advert to the contents of para-2 of the counter-affidavit and submit that both the aforementioned constables referred to by the petitioner, belong to the Backward Class Category-1 and therefore, even though their height measurement is lesser than that of the petitioner, they were granted appointment and the same benefit cannot be extended to the petitioner, who belongs to the Backward Class Category-2.

5. From perusal of the impugned order of the Disciplinary Authority, as also that of the Appellate and Revisional Authority, I do find that though the petitioner has referred to the specific names of such constables whose height measurement was lesser than that of the petitioner and that they belong to the Backward Class Category-2, but there is no finding on these issues in any of the impugned orders passed by the respondents.

6. Findings on these issues ought to have been recorded by reference to the documents, including the applications submitted by the aforesaid other constables pertaining to the caste to which they belong, as per their own declaration.

7. Considering the aforesaid facts and circumstances, this application is disposed of by remitting the matter back to the Disciplinary Authority namely, the Superintendent of Police, Chatra (Respondent No. 4), who shall verify the documents, including the applications submitted by the two candidates namely, Anant Kumar Sharma and Ramesh Kumar and ascertain the fact as to which category they belong and as per their declarations and if they belong to Backward Class Category-2, then reconsider the prayer of the petitioner for withdrawing the order of his termination and for reinstatement in service. The decision in this regard shall be taken by the respondent No. 4 within two months from the date of receipt/production of a copy of this order.

Let a copy of this order be given to the counsel for the respondent State.