

(2008) 03 PAT CK 0016
In the Patna High Court
Case No : LPA No. 1009 of 2007

Amar Nath Pandey and Another

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 19-03-2008

Acts Referred:

Citation : (2008) 3 PLJR 578

Hon'ble Judges : C.M. Prasad, J; Barin Ghosh, J

Bench : Division Bench

Advocate : Rajendra Prasad Singh, for the Appellant; Manu Shankar Mishra and Chandrashekhar Verma, for the Respondent

Final Decision : Dismissed

Judgement

1. Considering the averments made in the application for condonation of delay in filing the appeal and being satisfied with the reasons furnished for delay in preferring the appeal, we condone the delay in preferring the appeal by allowing the limitation application being I.A. No. 6711 of 2007. We have heard learned counsel for the parties and we are of the view that there is hardly any scope for interference.

2. The facts giving rise to the present appeal are that the State of Bihar published an advertisement for recruitment of constables and therein provided that 50% of the posts sought to be filled up are reserved for Home Guards, who have been trained by the State of Bihar. The said advertisement made it clear that one can apply either for filling up the reserved vacancies or for filling up the non-reserved vacancies. The writ petitioners who are Home Guards trained by the State of Uttar Pradesh responded to the advertisement and thereby indicated that they are opting to be appointed against the reserved posts of trained Home Guards. The applications of the appellants having not been entertained, they preferred a writ petition which having been dismissed, the present appeal has been filed.

3. The contention before the Writ Court as well as before us is that there is logically no difference in between the training imparted by the State of Bihar and the training imparted by the State of Uttar Pradesh for the object of both the trainings is to train Home Guards. It was, therefore, contended that it was unjust on the part of the State of Bihar to make a discrimination in between the persons trained by the State of Bihar and the persons trained by the State of Uttar Pradesh.

4. The fact, however, remains that the writ petitioners did not challenge fixation of quota for the Home Guards trained by the State of Bihar. We are, accordingly, not called upon to go into that aspect of the matter. If we cannot go into that aspect of the matter, basically the contentions of the appellants in the writ petition as well as in the appeal cannot be advanced further.

5. Be that as it may, it is now well settled in law that it is permissible to make a sub-classification amongst a class-but there must be a reasonable nexus for making such a classification. Home Guard training is not a qualification as such. Home Guards are trained by the States on the basis of their contemplated requirements. The State of Bihar having trained Home Guards on the basis of its contemplated requirement, if it has sub-classified them as such as against Home Guards trained by other States, it cannot be said that there is no reasonable nexus for making such classification. Home Guard training being not a qualification, there is no question of ascertaining whether the training imparted by the State of Bihar and the training imparted by other States are equivalent or not. The advertisement made it clear that 50% of the posts are reserved for those who were trained as Home Guards by the State of Bihar. Writ petitioners having not challenged this reservation, they cannot get into this reservation unless they fulfill the basic requirements of that category, i.e. training imparted by the State of Bihar. We, therefore, see no reason to interfere with the judgment and order under appeal. The appeal fails and the same is dismissed.