
(2006) 02 JH CK 0056
In the Jharkhand High Court
Case No : L.P.A. No. 378 of 2005

Anil Kumar

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 16-02-2006

Acts Referred:

Citation : (2006) 2 JCR 399

Hon'ble Judges : S.J. Mukhopadhaya, J; Narendra Nath Tiwari, J

Bench : Division Bench

Advocate : M.S. Anwar, Rajiv Ranjan, for the Appellant; M.K. Laik Sr. S.C. I., for the Respondent

Final Decision : Allowed

Judgement

1. The appellant applied for the post of Assistant in pursuance of an advertisement published on 30th September, 2004. It was informed that as per the advertisement, written test in two subjects, namely, General Hindi and General Knowledge of 100 marks each was to be conducted. In pursuance of the said advertisement, the petitioner and the Intervenor-respondents applied and appeared in the written test but at the time of written test, they found that instead of 100 marks, only 75 full marks was allowed for General Knowledge and 25 marks for General Hindi. They challenged the result published on the basis of the such marks, which was rejected by the learned single Judge.

2. The case was taken up on 31st January, 2006 when after hearing the parties, the following order was passed:

Heard further.

So far as merit of the case is concerned, having noticed the rival submissions made by the counsel for the parties and suggestions as made by some of them, the respondents are directed to file counter affidavit and state:

(1) Whether they intend to increase the full marks of General Knowledge paper

from 75% to 100% and General Hindi paper from 25% to 100% and proportionate increase of marks obtained by one or other candidate.

(2) Whether on such proportionate increase of marks, they intend to prepare a fresh merit list of successful candidates and thereby they intend to accommodate all those who may be placed in higher position than those who have already been appointed.

In such case, if the answer is in affirmative, it will be open to the respondents to retain all those who have already been appointed and to accommodate the rest, who may get higher position in the merit list than those who have already been appointed.

Place this case for further hearing under the heading FOR ORDERS" on 16th February, 2006.

Let a copy of this order be handed over to the counsel for the parties.

3. In pursuance of the aforesaid, order the following affidavit has been filed by the respondents:

That in terms of the aforesaid order it is submitted that we have decided to increase the full marks of General Knowledge paper from 75% to 100% and General Hindi paper from 25% to 100% and proportionate increase of marks obtained by one or other candidates.

That in terms of Clause 2 of the order it is further submitted that the respondents have agreed to prepare a fresh merit list of successful candidates and thereby have agreed to accommodate/call in typing test and interview of those who may be placed in higher position than those who have already been appointed.

That for clarification it is being submitted that after following the concept as given in Clause 1 of the order merit list will be prepared proportionately of successful candidate and after preparation of such merit list the candidate in the merit list will be called/accommodated to face typing test and interview and after the testing in typing work and interview the candidates will be taken in appointment accordingly.

4. Counsel for the appellant and In-tervenor-respondents submits that they have no objection to the suggestion as made by the Court and the affidavit Tiled by the respondents.

5. We, accordingly, direct the respondents to prepare a fresh merit list in terms with their stand taken before this Court as recorded above, and complete the process of selection within two months from the date of receipt/production of a copy of this order.

6. If the appellant or any other person is shown above to those, who have already been appointed, then the appellant will be accommodated on the basis of

merit. The order dated 19th April, 2005 passed by the learned Single Judge is set aside. This appeal is allowed with the aforesaid observations and directions. However, there shall be no order as to costs.