
(2009) 04 JH CK 0037

In the Jharkhand High Court

Case No : Writ Petition (S) No. 159 of 2003

Arun Kumar Sinha, Ramgulam Sharma, Awadhesh Nandan
Prasad and Rabhubir Singh Vidyarthi

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-04-2009

Acts Referred:

Citation : (2009) 57 BLJR 1951

Hon'ble Judges : Ajit Kumar Sinha, J

Bench : Single Bench

Advocate : Dilip Jerath, for the Appellant; Kalyan Roy, for the Respondent

Final Decision : Allowed

Judgement

Ajit Kumar Sinha, J.—The present writ petition has been preferred for the following reliefs:

- i) For issuance of an appropriate writ/order/direction for quashing the gradation list dated 2.6.2002 contained in Memo No. 3926 issued under the signature of Deputy Inspector General of Police (Personnel) Jharkhand Ranchi whereby and whereunder a gradation list has been prepared in which the person who are outside the cadre of the petitioners whose name figures from Sl. No. 13 to 25 have been included thus treating them senior to the petitioners,
- ii) For a direction upon the respondents to consider the case of the petitioners for promotion to the post of Deputy Superintendent of Police on the basis of gradation list to be prepared from the cadre of which the petitioners belong.

The facts in brief are set out as under:

2. The petitioners were directly recruited as Sub-Inspector of Police in the year 1975-76 and they were promoted to the post of Inspector. However, in the gradation list dated 2.6.2.002 issued vide Memo No. 3923 from serial No. 13 to 25 the persons appointed directly on the post of Steno Sub-Inspector have been

included who were promoted to the post of Sub-Inspector in the year 1982-83.

3. The main contention raised by the counsel for the petitioners is that the gradation list dated 2.6.2002 with reference to persons included in serial No. 13 to 25 is on the face of it illegal and unsustainable since the Steno Sub-Inspector formed a separate cadre altogether and even otherwise they were merged in the Sub-Inspector Cadre only in the year 1982-83 that is much after the appointment of the petitioners directly on the post of Sub-Inspector in the year 1975-76.

4. The counsel for the petitioners has referred to and relied upon the judgment and order passed by the Division Bench of this Court in C.W.J.C. No. 6371 of 1990 on an identical issue wherein at paragraph - 11 it was held as under:

11. Keeping in view the facts of the present case and the principles governing determination of seniority it has to be held that for the purpose of determining inter-se-seniority of the petitioners and respondents No. 1 to 19, the respective dates of entry/appointment of these persons in the cadre of Sub-Inspector of Police can be the only relevant basis and neither the date of first appointment of the petitioners in another cadre nor the date of confirmation of the respondents on their respective posts is of any consequence for the said purpose.

5. The SLP (Civil) No. 568 of 1994 was preferred against that order which was also dismissed vide order dated 14.2.1994.

6. The counsel for the respondent fairly admits that this issue is no more resintegra and even the Division Bench of this Hon"ble Court vide its order reported in Humayan Azam and Others Vs. State of Jharkhand and Others, has decided the issue in question in favour of the petitioners.

7. In the aforesaid facts and circumstance of the case and in view of the settled law a person can claim seniority/promotion only from the respective date of entry/appointment in the cadre.

8. In the instant case there is no denial of the fact that in the cadre of Sub-Inspector of Police the petitioners were only appointed by way of direct recruitment in 1975-76 whereas the persons at serial No. 13 to 25 in the gradation list of 2002 were promoted or brought to the cadre of Sub-Inspector only in the year 1982-83 and thus they cannot claim seniority even before they were born in the cadre.

Considering the aforesaid facts and circumstance of the case and also in view of the admitted facts and the case law, this writ petition is allowed.