
(2016) 02 JH CK 0001
In the Jharkhand High Court
Case No : W.P. (S) No. 1431 of 2015

Baharani Murmu

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 01-02-2016

Acts Referred:

Citation : (2016) 4 AIRJharR 86 : (2016) 3 JBCJ 439 : (2016) 2 JCR 345 :
(2016) 2 JLJR 146

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mithilesh Singh, Advocate, for the Appellant; Mohan Kumar Dubey, J.C. to A.G., for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—1. Heard learned counsel for the parties.

2. Petitioner has participated in the enrollment/recruitment exercise for Home Guard carried out in the district of Dumka pursuant to Adv. No. 1/2009. The advertisement prescribed the minimum eligibility criteria i.e. candidate should be between 19 years to 40 years of age; the educational qualification should be upper primary (for rural candidates), matric (for urban candidates); height prescribed of 5'2" for Scheduled Tribe; 5'4" for other categories; 5" for female (urban area); chest measurement should be 30" for Scheduled Tribe and 31" for other categories.

3. The note appended to the advertisement indicated that selection process would be undertaken as per the criteria prescribed by Deputy Commissioner, Dumka which included running of 1 mile within 6 minutes. Pursuant to the applications made including that of the petitioner, physical test had been taken between 27th August, 2009 to 29th August, 2009. In between, the Home Department had issued a circular bearing No. 3324 dated 27th August, 2009. The respondent authorities of the District of Dumka chose to seek guidelines on

the subject from the Home Department as to whether to follow the criteria prescribed under the Home Department's letter or to follow the procedure already being adopted as per the decision of the Committee of officers of district of Dumka as contained in Annexure-3 dated 4th August, 2009.

4. Annexure-3, is the minutes of District Level Selection Committee dated 3rd August, 2009 which was presided over by the Deputy Commissioner, Dumka with the Superintendent of Police and District Commandant, Home Guard, Dumka as its members. The selection procedure resolved therein provided for graded marks for different measurement of height of male and female candidates and also graded marks for educational qualification. A person having 177.1 cm. and above height would get a maximum 11 points while a maximum of 7 points could be attained for the highest qualification of Intermediate. Similarly, for female candidate, the highest measurement of 173.1 would achieve 11 points and 7 points for the Intermediate pass candidate for the said category. 2 points were allocated for technical qualification for candidates belonging to the urban category such as for technical attributes of driver/electrician/computer operator/carpenter. On guidelines being sought from the Home Department, the Deputy Commissioner, Dumka was communicated through letter No. 1916 dated 4th April, 2014 issued by the Office of Director General of Police, Jharkhand that enrollment of Home Guard should be done as per Advertisement dated 27.9.2008, issued by Deputy Commissioner, Dumka. It also clarified that Police Recruitment Procedure as stated in Home Department letter No. 3324 dated 27th August, 2009 is not to be followed in matters of enrollment procedure of Home Guards at Dumka as the enrollment process had been initiated from before. The process was to be completed as per the detailed minutes of the meeting held on 28th June, 2011 of the District Enrollment Committee (Annexure-6) in an expeditious manner.

5. This petitioner along with few others had approached this Court in W. P.(S) No. 5911 of 2011 raising the grievance in relation to the delay in finalizing and publication of the merit-list of the successful candidates, from whom the appointment is to be made. By judgment dated 24th April, 2014 (Annexure-7) considering the stand of the respondents and the guidelines specifically issued by the Director General of Police in the matters of procedure to be followed in the instant exercise as detailed hereinabove, the writ petition was disposed of by directing the Deputy Commissioner, Dumka to finalize and publish the merit-list of the successful candidates who have participated in the recruitment exercise under Adv. No. 1/2009 to be completed within a period of 4 months from the date of receipt of a copy of this order.

6. Petitioner after participating in the selection process however could not find place in the final list of successful candidates in her category as total vacancies advertised for Dumka town area was 12 post and 6 post for General Category and Scheduled Tribe respectively. Petitioner was at serial No. 31 in the merit-list. She has now laid a challenge to the entire selection process on the grounds that

they are in teeth of the provisions of Bihar Home Guard Rules, 1953 specifically Rule 4. Answer to this question has been given by learned counsel for the respondents by relying upon the provisions of Rule 21 of the same Rules, which stipulates that provision of the Bihar Police Manual shall apply, as far as may be, to the Home Guards Force unless such provision is repugnant to any of the provisions of the Bihar Home Guard Acts, and Rules, 1 to 20 and 22. It is also urged on behalf of learned counsel for the State that petitioner after having consciously participated in the entire process has now laid a challenge to the recruitment exercise though she was conscious of the guidelines laid down for preparation of the merit-list as decided by the District Enrollment Committee in its memo No. 1337 dated 4th August, 2009. It is also urged that the entire selection process has been done in a transparent and proper manner. The merit-list reflects the comparative merit of the individual candidates based upon their performance under the respective criteria of height, educational qualification and chest measurement etc. Therefore, no interference should be accorded in the impugned action of the respondent at this stage. Reliance has also been placed upon the notification No. 3300 dated 12th November, 2001 issued under the provisions of Rule 663 of Jharkhand Police Manual. It is submitted that yardstick which has been applied in the selection process are more or less in conformity with the yardstick employed in the matter of regular recruitment to the Police Force. The Home Guards also forms a source from which appointment to the post of constable is made in the State. The yardstick which has been followed make the best and meritorious candidates eligible for enrollment and appointment as a Home Guard which should not find any interference by this Court as the entire process is not only transparent but based upon an uniformed yardstick and does not suffer from any perversity.

7. I have considered the submissions of the parties in the light of material facts pleaded. In the first place, it appears that petitioner after having lost in the competition for being enrolled as a Home Guard and after having approached this court earlier in W. P. (S) No. 5911 of 2011 for finalization and publication of the merit-list of successful candidates has now questioned the entire selection process itself. This approach should not be encouraged after the selection process has come to an end. On the other hand, it appears upon consideration of the relevant materials facts noticed hereinabove, that the criteria laid down by the District Enrollment Committee to test the inter se merit of competing candidates is wholly reasonable and uniform so far as it applies to all respective categories of participating candidates. It would be wholly difficult for the recruiting agency to prepare the merit-list in the absence of graded marks for the criteria required to be followed in such process of recruitment to the post of Home Guard i.e., height, educational qualification and chest measurement etc. The provisions of Rule 1953 relied upon by the petitioner also stipulate under Rule 21 that provisions of Bihar Police Manual shall apply, as far as may be, to the Home Guards Force unless such provision is repugnant to any of the provisions of the Act itself. Perusal of Rule 4 shows that the impugned

advertisement did follow, the minimum and upper age limit of 19 to 40 years respectively apart from laying down minimum criteria of height and chest measurement to be judged amongst the participating candidates. In the matters of educational criteria, the respondents authorities of the district authorities Dumka seems to have followed a graded system of marking as per the qualification of 7th pass/matric pass/intermediate pass. No one who is qualified upto upgraded primary level i.e., 7th pass is shown to have been disqualified in the matter of recruitment exercise. It therefore appears that the selection process has been done as per uniform procedure which any selection body is entitled to adopt as it is in the domain of the executive. If the eligibility criteria professed has been applied uniformly to all the categories and the petitioner has failed in the selection test, it is now late in the day to lay a challenge to the entire process and the final merit-list.

8. Therefore, no grounds for interference are made out. The writ petition is accordingly, dismissed.