
(2001) 01 JH CK 0034
In the Jharkhand High Court
Case No : CWJC No. 160 of 1991 (R)

Binod Kumar

APPELLANT

Vs

Ranchi Kshetriya Gramin Bank and Others

RESPONDENT

Date of Decision : 10-01-2001

Acts Referred:

Citation : (2001) 49 BLJR 1057

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Anil Kumar Sinha, R. Krishna and S. Arun, for the Appellant; P.K. Sinha and Rajiv Ranjan, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—The petitioner, a clerk cum cashier appointed was not granted promotion to the post of Field Supervisor though juniors including respondent Nos. 3 to 7. were promoted by notification No, 1990 - Promotion-1/dated 20th November, 1990 w.e.f. 19th November, 1990. He challenged the aforesaid notification dated 20th November, 1990 alleging violation of guidelines "of seniority cum merit".

2. The present writ application on its admission remained pending. In the meantime, in another similar writ petition the principle of "seniority cum merit" was decided. Against the decision of learned Single Judge LPA Nos. 208 and 209 of 1991 (R) were preferred, which were referred to a Full Bench. A Full Bench of Patna High Court by its decision in Abdul Sattar Wahidi Vs. Bihar State Road Transport Corporation and Others, held that in the case of "Seniority cum Merit", greater emphasis to be given on seniority, though it alone can not create any right of promotion. Both the appeals were sent back to the Division Bench for decision on the merit after decision aforesaid. The decision of learned Single Judge was affirmed by Division Bench vide its judgment dated 3rd January, 2001, passed in LPA No. 208 of 1991 (R) and analogous case.

3. Admittedly the contesting respondent Nos. 3 to 7 were juniors to the

petitioner, as was reflected in the final seniority list dated 15th July, 1988. It is also admitted that the notification of the promotion dated 20th November, 1990 was issued without following principle of "Seniority cum Merit" but on assessment of merit based on academic qualification and marks obtained in the interview.

4. Learned counsel for the parties including intervenor No. 4, accept that the case of the petitioner is covered by the decision aforesaid.

5. Accordingly, following decision as referred above, the notification dated 20th November, 1990 is set aside with following observation and direction :

Respondent shall consider the case of all eligible candidates including the petitioner; contesting respondent Nos. 3 to 7 and intervenors, if otherwise eligible, for promotion to the posts of field supervisor in accordance with the observation made by High Court in the case of D.P. Singh (supra), as affirmed in LPA Nos. 208 and 209 of 1991 (R). While considering the case of all the eligible candidates, it shall be open to the respondent to fix marks for assessment of performance of preceding three years prior to the date such promotion as were considered originally. This clearly means the three preceding years from the date of original consideration which was the subject matter of the writ application. It shall be open to the Bank to allocate marks at the minimum level for the interview/viva voce test in addition to assessment of performance, to determine the standard of candidate in the interest of administration. Once it is done, seniority shall have precedence over everything else.

6. The entire exercise to be completed within a period of three months from today and order(s) granting promotion to be issued, given effect to and implemented in all respects within the period of three months aforesaid.

Till orders of promotion are issued based on the aforesaid directions the respondent Nos. 3 to 7 and the intervenor(s) will continue to hold the post(s) as presently held by them and not to be disturbed till the final order(s) are passed in the matter of promotion. If, however, any contesting respondent(s) or intervenor(s) or one or other fail to get promotion they shall be deemed to be reverted to the post as originally held by them before issuance of the impugned order of promotion, which has been set aside.

It is also made clear that contesting respondent Nos. 3 to 7 or the intervenors if allowed promotion on such consideration, they will not get benefit in pursuance of earlier notification dated 19th November, 1990, which has been set aside by this Court.

7. This writ application stands disposed of with the aforesaid observation/direction. There shall be no order as to costs.

8. Writ disposed of.