

(2002) 04 JH CK 0071
In the Jharkhand High Court
Case No : CWJC No. 4424 of 2000

Brijendra Prasad Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 03-04-2002

Acts Referred:

Citation : (2002) 04 JH CK 0071

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

Bench : Single Bench

Advocate : B.P. Pandey, J.S. Singh and K.K. Misra, for the Appellant; R.K. Choudhary, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—The petitioner has challenged the order, contained in Memo No. 10546, dated 28th October, 2000, whereby and whereunder, the Administrator, Co-operative Land Development Bank, Patna (Bank, "for short"), terminated the services of the petitioner on the ground that he was overage at the time of appointment and the appointment was made without following the procedure.

2. The main plea taken by the petitioner is that the order of termination has been issued after the petitioner having served 21 years in the Bank and other similarly situated persons have already been reinstated by the order of the Patna High Court.

3. The respondents in their counter affidavit have taken the plea as taken in the order of termination and in addition stated that in the case of Jai Prakash Rai and others, in CWJC No. 10673 of 1995, the Patna High Court directed the Bank to take certain decision in respect to persons continuing against Class III & IV posts in the Bank in irregular manner.

4. The case of the petitioner as pleaded and not disputed is that the Bank made advertisement in the year 1975 vide Annexure I calling for applications for

appointment against different class III posts. The petitioner applied for the post of Land Valuation Officer and was called for test, vide call letter, as contained in Annexure II. He appeared in the test on 10th August. 1975 and having come out successful, was called for interview, vide call letter, as contained in Annexure III. The petitioner also appeared in interview on 23rd November. 1975, but thereafter no order of appointment was issued.

5. The petitioner thereafter to know the outcome of the selection, met the authority, he was ultimately given appointment on daily wage to the lower post of Assistant-cum-Typist vide Memo No. 3532, dated 15th November, 1979. After about 1-1/2 years of working on daily wage, the petitioner was given ad hoc appointment as Field Officer (the nomenclature of Land Valuation Officer), vide Memo No. 357 dated 26th June. 1981 [Annexure 5). While the petitioner was performing the duty on ad hoc basis, the Board of Directors, vide its decision taken in the meetings dated 9th November, 1986 and 30th November. 1986. contained in Memorandum No. 11 (Annexure 6) decided to regularise the services of those working on ad hoc and daily wage basis without resorting to the normal procedure like reservation etc. In the aforesaid background, the cases of petitioner and others were considered and they were provisionally appointed in the regular scale by common Order No. 2212, dated 6th October. 1987.

6. It is alleged that the ground taken in the impugned order and the show cause notice, as were issued earlier were bad as at the time of filing the application in terms of advertisement, the petitioner was within 30 (thirty) years of age.

7. From the impugned order dated 28th October, 2000 it will be evident that the date of birth of petitioner is 1st August. 1948. Thus, it is evident that the petitioner while initially appointed on daily wage on 10th November, 1979 was about 31 years and three months.

8. It is not in dispute that the petitioner applied in pursuance of advertisement and was subsequently given appointment on daily wage.

9. There is nothing on the record to suggest that there was a ban of appointment made by the Bank, though reference of some ban made by the government mentioned in the order.

10. According to this Court, the authorities of the Bank having power to relax the age and considering the services rendered by the petitioner for about 21 years, they should not have reopened the issues like overage of petitioner or that there was a ban of appointment.

11. So far as appointment by following the procedure is concerned, the respondents have not disputed that an advertisement was issued in the year 1975, the petitioner was called to appear in the written test and having become successful was asked to appear in the interview. Thereafter, in pursuance of the said advertisement, if the petitioner was not given regular appointment, but was given appointment on daily wage later on, they cannot reopen such issue at this

belated stage.

12. It has been brought to the notice of the Court that other similarly situated persons whose services have also been regularised vide order dated 6th October, 1987, they have been reinstated by the order of the Patna High Court passed in the case of Jagdish Prasad Yadav, CWJC No. 1118 of 2001 and analogous cases, disposed of on 7th May, 2001. The reinstatement order has been enclosed by the petitioner, which contained the Memo No. 7783, dated 18th September, 2001.

13. For the reasons aforesaid, as I find no justification for termination of services of petitioner, the impugned order dated 28th October, 2000 is set aside.

14. The petitioner stands reinstated with consequential benefits.

15. The writ petition is allowed.