
(2009) 03 JH CK 0091

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2215 of 2003

Chit Bahal Singh

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 18-03-2009

Acts Referred:

Citation : (2009) 57 BLJR 2006

Hon'ble Judges : Ajit Kumar Sinha, J

Bench : Single Bench

Advocate : M.M. Pal, for the Appellant; Rabindra Prasad, JC to GP-IV, for the Respondent

Final Decision : Dismissed

Judgement

Ajit Kumar Sinha, J.—In the instant writ petition the petitioner prays for following reliefs:

A. The rejection order dated 21.09.2002 passed by the respondent No. 1 be quashed.

B. The Office order dated 15.01.2003 so far the petitioner is concerned, whereby and whereunder his first time bound promotion has been cancelled be quashed.

C. The respondents be directed not to give effect to the office order dated 21.9.2002 and 15.01.2003 and to consider his further promotion in accordance to the office notification dated 18.12.1989.

D. The respondents be directed to consider the case of the petitioner for his promotion against the Super Selection Grade and Senior Selection Grade on and from the date it is due against the vacant sanction posts and to give all consequential benefits thereon.

2. The facts, in brief, are set out as under:

The petitioner was initially appointed as Survey Store Clerk as a Grade-III

employee on 14.2.1963. He was given time bound promotion vide an order dated 17.10.1990 with effect from 01.4.1983 and thereafter he was not given any promotion i.e. either the second time bound promotion or the senior selection grade though he was entitled for the same with effect from 1988.

3. The main contention raised by the petitioner is that the rejection order dated 21.9.2002 has been passed on extraneous circumstances without considering the letter dated 28.01.1983 and 15.01.2003 issued by the Establishment Deputy Collector, Dhanbad. It has further been contended that the stay order is arbitrary, illegal and discriminatory. According to the counsel for the petitioner he had passed Hindi Noting and Drafting Examination in the year 1983 and thus the cancellation of the first time bound promotion for non-passing of the examination in question was illegal.

4. The counsel for the respondents submit that the petitioner was neither eligible nor found suitable for promotion as per selection grade/senior selection grade in view of the non-fulfillment of the criteria of seniority and also in view of his character roll which was essential for promotion. It has also been contended that his confidential report was adverse continuously for seven years and he did not pass Hindi Noting and Drafting Examination and he was suspended twice earlier and his conduct was not conducive and he was also censured and reprimanded on many occasion for dereliction and negligence of duty coupled with act of indiscipline. It has also been submitted that the second time bound promotion is not automatic on mere completion of 25 years of service but instead the condition stipulated by Government order No. 308 dated 2.2.1994 the second time bound promotion cannot be granted until the confirmation/approval of the first time bound promotion is accorded by the State Government and thus it cannot be claimed as a matter of right.

5. I have considered the arguments and the rival submissions. It appears that the petitioner was found guilty of dereliction and negligence in performing his duty and was censured and reprimanded on many occasion. He was also put under suspension and his confidential report was not at all satisfactory. It also appears that the first time bound promotion was given with effect from 01.4.1983 vide order dated 17.10.1990 provisionally and the same was with a pre-condition that it will be subject to the approval of the competent authority, however, the State Government through the Department of Science and Technology rejected the same on the ground that he had not cleared the accounts examination and as such his first time bound promotion was untenable and it was in this background he was not considered for the second time bound promotion. The fact remains that the petitioner did not fall within the consideration zone for being granted selection grade/senior selection grade. It is further clear that he did not fulfill the requisites criteria of seniority as well as clean character roll which is the pre-condition for promotion from junior selection grade to senior selection grade to super selection grade limited to 2.5% of the total cadre or strength and even otherwise he did possess the requisite

qualification.

6. Considering the aforesaid facts and circumstances of the case, I find that the impugned order clearly assigns the reason that the petitioner along with six others was found to be unqualified on the relevant date since they have not cleared the accounts examination. Even the circular which is annexed at annexure 6 clearly specifies that such delinquent officers who were wrongly promoted cannot be granted the second time bound promotion unless the first time bound promotion is confirmed.

Considering the aforesaid facts and circumstances of the case this writ petition being devoid of any merit is accordingly dismissed.