

(2001) 10 PAT CK 0063
In the Patna High Court
Case No : C.W.J.C. No. 10076 of 2000

Deo Kumar Singh and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 10-10-2001

Acts Referred:

Bihar Village Level Worker and Village Extension Worker (Recruitment and condition of service) Rules, 1987 — Rule 3, 7

Citation : (2002) 1 PLJR 289

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Narayan Roy, J.—Heard Mr. Yaduvansh Giri, learned senior Counsel for the Petitioners and J.C. to AAG I, for the Respondents.

2. By this writ application the Petitioners have prayed for issuance of a direction upon the Respondents to consider their cases for appointment to the post of Village Level Worker (hereinafter referred to as V.L.W) in the district of Madhubani and also for issuance of a direction to prepare the merit list of the candidates for appointment to the post of V.L.WS. according to Bihar Village Level Worker and Village Extension Worker (Recruitment and condition of service) Rules, 1987 (hereinafter referred to as the Rules).

3. Learned Counsel for the Petitioners submits that Rule 3 of the Rules provides for constitution of a cadre of V.L.W. for each of the district in the State of Bihar and such cadre will be a district cadre. Mr. Giri further submits that pursuant to the aforesaid Rule, posts of V.L.W. for the district of Madhubani were advertised vide Annexure-3 and the Petitioners pursuant to the advertisement, applied for the post along with others. The applicants finally were interviewed as per the mode prescribed under Rule 7 of the Rules and a select list was prepared from among the candidates even not belonging to the district of Madhubani and consequently thereof, the candidates who hailed from other districts, occupied

the upper bearth in the select list as per the marks obtained by them and the Petitioners were placed below in the list irrespective of the fact that the candidates only belonging to the district of Madhubani could have been selected for the post of V.L.WS. as per Rule 3 of the Rules. Learned Counsel for the Petitioner further submits that 1987 Rule has neither been amended nor any changes have been made in it. However, the select list has been prepared contrary to the provisions laid down in the Rule. Learned Counsel also submits that in other districts, posts of V.L.WS. have been filled up pursuant to the applications filed by the residents of that very district as per the Rule and only in the case of district of Madhubani the select list has been prepared do hors the rule. Particularly, my attention has been drawn to Annexure-10 to the writ application to show that 1987 Rule was strictly followed for filling up the posts of V.L.WS. in the district of Samastipur.

4. A counter affidavit and a supplementary counter affidavit have been filed on behalf of the State. In the counter affidavits so filed by the State, no where it is stated that 1987 Rule had undergone certain changes or the same was amended and accordingly the select list was prepared. However, it is stated in the counter affidavit that select list was prepared on the basis of merit only. The select list has been brought on record marked as Annexure-B to the supplementary counter affidavit filed on behalf of Respondent No. 6.

5. Mr. Giri, learned Counsel for the Petitioners submitted that the provisions of 1987 Rule were tested by this Court in C.W.J.C. No. 2425 of 1998 and this Court held that Rule 1987 still holds good and appointment to the post of V.L.WS. were required to be made strictly in accordance with the Rule aforesaid.

6. It is manifest from 1987 Rule, that candidates being residents of the particular district where posts were to be filled up, were only entitled to be appointed as against the existing vacancies and they must be placed above the persons belonging to other district in case requisite number of candidates were not available for filling up of the vacant posts from that district.

7. In the case at hand, it appears that the candidates belonging to other districts have been placed at the top of the select list and efforts have not been made by the authorities to fill up the posts of V.L.WS. strictly according to the Rules and from amongst the candidates of the district of Madhubani. No plausible explanation whatsoever has been set forth in the counter affidavit filed on behalf of the State in support of the action of the authorities.

8. In the facts and circumstances of the case, therefore, the select list as contained in Annexure-B to the counter affidavit must be held to be violative of the provisions of 1987 Rule.

9. In that view of the matter, the select list as contained in Annexure-B is not sustainable. It is informed by learned Counsel for the State that the vacant posts of V.L.WS. in the district of Madhubani have not been filled up as appointment letters have not been issued to the candidates whose names figure in the select

list.

10. For the reasons aforementioned, therefore, I allow this writ application and the select list as contained in Annexure-B to the counter affidavit is set aside and the matter is remitted back to the District Magistrate, Madhubani for fresh consideration of the matter in the light of observation made above and for preparation of the select list in accordance with 1987 Rule for filling up the posts of V.L.WS. However, this exercise should be completed expeditiously.

11. There shall be no order as to costs.