

(2014) 08 JH CK 0052
In the Jharkhand High Court
Case No : W.P. (S). No. 7119 of 2011

Dhirendra Kumar Singh

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 06-08-2014

Acts Referred:

Citation : (2014) 4 JLJR 21

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Rajesh Kumar and Nagendra Tiwari, Advocate for the Appellant;
Mohan Kr. Dubey, J.C. to A.G, Advocate for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for petitioners and the State.

2. The grievance of these petitioners is that after they were selected and appointed under the Advertisement No. 3 of 2009 for the post of Constable following all the procedures and were allowed to work for more than 1 month on verbal order they were being restraint from working while other similarly situated persons are working.

3. It is the contention of the petitioners that under the said advertisement in which the petitioners applied being eligible in all respect, they were declared successful after passing the physical and other test. The final selection list was published on 29.6.2011 in the newspaper and petitioners were called for to report along with certificate, photograph etc between 15.7.2011 to 22.7.2011 by the respondent No. 4, the Commandant, Indian Reserve Battalion-V, Gumla. They in fact reported their joining on 15.7.2011 and on 27.7.2011 medical test was conducted in which petitioners were found fit in all respect. They were sent for training at Dhurwa Camp and were allowed hostel and mess. However, all of sudden on 21.8.2011 they were orally informed that they have not been found fit and consequently debarred from discharging the duties. They had also represented on 23.8.2011 before the City Superintendent of Police, Ranchi but

without any avail.

4. According to the respondent-State the petitioners were only issued call letters which specifically indicated that it should not be treated as an appointment letter. Some of the call letters are annexed to the writ petition as Annexure-2 series. According to the respondents during the course of verification of certificates, a re-measurement exercise was also held which was compared to the original master chart and height of some of the candidates selected were found to be less than the desired cut-off height and therefore they were found not eligible and could not be taken into employment on the basis of select list alone. In the said re-measurement exercise each of the present petitioners were found having height far below the cut-off height for all their respective categories. As a result of which, their joining was not accepted by the respondent No. 4, the Commandant, Indian Reserve Battalion-V, Gumla. Therefore there is no illegality in the action of the respondents and petitioner did not have a legal claim to continue in employment.

5. Having heard counsel for the parties and upon perusal of the relevant materials on record, it appears that the petitioners' claim for employment is based upon the call letters, some of which are annexed as Annexure-2 series and some as Annexure-4 series annexed to the supplementary affidavit filed by the petitioners. Perusal of the said call letters, it appears that these specifically mentioned that it should not be treated as an appointment letter. It further shows that the respective candidates were recommended for appointment to the post of Constable by the Selection Board under advertisement No. 3 of 2009 and were directed to report to the Indian Reserve Battalion-5 at Gumla camp along with their necessary certificates and credentials. The said letter therefore cannot be treated to be an appointment letter which has given a substantive right to the petitioners to claim appointment and continue in service. Further, it is also apparent from the stand of the respondents that during the course of verification exercise of selected candidates, or re-measurement taken by them, each of the present petitioners were found having height far below the desired height. The photo copy of the new height data is annexed as Annexure-A to the counter affidavit. The aforesaid state of facts, therefore, indicate that petitioners have failed to fetch the desired height/cut off marks which could have entitled them to stake claim for regular substantive appointment on the post of Constable as the similarly situated persons who are working on the said post. Since the petitioners were found to have secured lesser height than the cut off height prescribed for such appointment, they cannot claim substantive legal right to confer appointment on the post of Constable under the said advertisement.

6. In these circumstances, the petitioners have failed to make out a case for issuance of direction or order for issuance of appointment letter to the petitioners for joining on the post of Constable.

7. The writ petition being devoid of merit is accordingly, dismissed.