
(2006) 11 PAT CK 0141
In the Patna High Court
Case No : CWJC No. 8121 of 2006

Dr. Radhe Shyam Rai

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 06-11-2006

Acts Referred:

Citation : (2007) 1 PLJR 356

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Advocate : Rakesh Kumar Singh, Y.C. Verma and Madhurendra Kumar, for the Appellant; Dhruba Mukherjee for the State of Jharkhand and Prahalad Kumar Bhagat for the state, for the Respondent

Final Decision : Allowed

Judgement

Aftab Alam, J.—Heard Mr. Y.C. Verma, Sr. Advocate appearing on behalf of the petitioner and the J.C. to AAG 5 representing the State. Also heard Mr. Rakesh Kumar Singh counsel representing the State Level Advisory Committee and Mr. Dhrub Mukherjee, counsel appearing for the State of Jharkhand. The petitioner is a Lecturer in Chemistry in an Intermediate Level School (Plus two school). In the cadre division his service has been allocated to the State of Jharkhand. It is not in dispute that the petitioner is domiciled in this State and he had given option to stay in Bihar. It is also not in dispute that in the tentative allocation list he was shown in the list for the State of Bihar. Later, in the final allocation his service was given over to the State of Jharkhand.

2. According to the State Level Advisory Committee, the change in allocation of the petitioner's service was made on the basis of the second option/representation received from him requesting for allocation of his service to the State of Jharkhand. The petitioner strongly denied having submitted any second option/representation for going to the State of Jharkhand. On the previous date (6.9.2006) the court took note of the rival submissions made on behalf of the parties and asked the concerned respondents to produce the second option/

representation said to have been submitted by the petitioner after publication of the tentative allocation list. In pursuance of the court's direction the State Level Advisory Committee filed a supplementary counter affidavit bringing on record, as Annexure-1, a representation dated 12.1.2003 purportedly signed by the petitioner. A copy of the same representation is enclosed as Annexure-A to the counter affidavit filed today on behalf of respondent No. 5. In this representation dated 12.1.2003 a request is made, purportedly on behalf of the petitioner, for his posting in Jharkhand on the plea that his father lived in Hazaribagh town.

3. Though the representation is addressed to the Chairman of the State Level Advisory Committee it was submitted before the Director, Secondary Education Cell who forwarded it to the Education Department from where it was sent to the State Level Advisory Committee. The representation is signed in Hindi as Radhe Shyam. Rejoinder affidavits are filed on behalf of the petitioner in which he once again strongly denies having filed any second option/ representation for posting in Jharkhand. It is submitted on behalf of the petitioner that the so-called representation is fake and it was mischievously filed by someone in order to harm him. On behalf of the petitioner it is stated that his father had no connection with Hazaribagh and he never lived there. It is stated that the petitioner's father was an old person aged about 80 years; he was completely paralysed. He lived with the petitioner at Bhagalpur.

4. On behalf of the petitioner the signature in the representation in question is also disputed and it is stated that it was not his signature. The petitioner has put his signature on the affidavit in the main writ petition and on the Vakalatnama in English. Those signatures are therefore not comparable with the signature on the disputed document which is in Hindi. But the petitioner's signature in Hindi is available on some of the rejoinder affidavits. Those signatures are indeed quite different from the signature on the disputed document.

5. In light of that the petitioner was directed to bring on record some earlier documents bearing his signature in Hindi. Today on behalf of the petitioner yet another affidavit is filed enclosing a photostat copy of some pages of his service book as Annexure-14. Page 3 of the service book bears four signatures of the petitioner in Hindi. These are dated 1.1.2003, 1.1.2004, 1.1.2005 and 1.1.2006. All these signatures are similar to his signature on the affidavits filed before the court but are completely different from the signature on the dispute document.

6. From the materials brought before the court it undoubtedly appears that the petitioner did not submit the disputed document and on his behalf no representation was made for his posting in Jharkhand. It, appears that someone else mischievously filed a petition purportedly on his behalf in order to harass him and the departmental authorities without any verification forwarded it to the Advisory Committee and on that basis the service of the petitioner was finally allocated to the State of Jharkhand.

7. In light of the discussion made above it is difficult to sustain the allocation of

the petitioner's service to the State of Jharkhand. The recommendation of the State Level Advisory Committee to that effect and the order of the Central Government in that regard are accordingly quashed. The petitioner shall be deemed to be an employee of the State of Bihar until a fresh order is passed, in accordance with law. It will be open to the State Level Advisory Committee to review the matter in light of this order and to make compensatory recommendation for the State of Jharkhand, in accordance with the rules. In the result, this writ petition is allowed but with no order as to costs.