
(2006) 05 JH CK 0066

In the Jharkhand High Court

Case No : Letters Patent Appeal No. 291 of 2004

Emanuel Ekka

APPELLANT

Vs

Ranchi Khatriya Gramin Bank and Others

RESPONDENT

Date of Decision : 19-05-2006

Acts Referred:

Citation : (2006) 3 JCR 387

Hon'ble Judges : S.J. Mukhopadhaya, J;Permod Kohli, J

Bench : Division Bench

Advocate : R.P. Gupta, for the Appellant; Ajit Kumar and N. Kumar, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—This appeal has been preferred by the appellant against the Order dated 18th March, 2004 passed by learned Single Judge in C.W.J.C. No. 2024 of 2001, whereby and where under, while the learned Single Judge dismissed the writ petition preferred by one Binod Kumar (C.W.J.C. No. 2023 of 2001), also dismissed the writ petition preferred by the appellant.

The aforesaid writ petition (C.W.J.C. No. 2023 of 2001) was preferred by the appellant against the Notification dated 9th April, 2001, whereby and where under, giving reference to a judgment of the High Court and on the ground of implementation of the said judgment, the petitioner and 18 others were reverted from the post of Officers to the lower clerical cadre w.e.f. 1st May, 2001.

2. The only question requires for determination in the present appeal is whether the appellant, who was not a party to the earlier writ petition being C.W.J.C. No. 160 of 1991(R) and was promoted to the Officers" cadre prior to the filing of the aforesaid writ petition can be reverted to the lower clerical post giving reference to the judgment aforesaid?

3. The appellant was appointed as Clerk in the Ranchi Khetriya Gramin Bank (hereinafter referred to as the "Bank") in the year 1985. In April 1989, he along

with others were called for interview for consideration of their cases for promotion to the next higher post of Field Supervisor (Officer rank). A seniority list was circulated on 15th July, 1988 in which 3rd respondent, Bilokan Bara was shown junior to the appellant. The said seniority list reached finality between the parties. Having found fit for promotion and having recommended by the Selection Committee, the appellant was promoted to the post of Field Supervisor w.e.f. 19th November, 1990 by Notification dated 20th November, 1990 issued by the Bank.

No person including the 3rd respondent, Bilokan Bara raised any grievance in regard to the promotion of the appellant. One Binod Kumar challenged the order of promotion dated 20th November, 1990 before the Ranchi Bench of the Patna High Court in C.W.J.C. No. 160 of 1991(R) in respect to some of persons on the ground that his juniors have been promoted in violation of the guidelines of seniority-cum-merit. The appellant was not a party in the said case. The learned Single Judge of the Court having noticed that the contesting 3rd to 7th respondent were juniors to the said Binod Kumar, as shown in the final seniority list dated 15th July, 1988 and having found that the Notification dated 20th November, 1990 in respect to them was issued without following the seniority-cum-merit but on assessment of merit based on academic qualification and marks obtained in the interview, by judgment dated 10th January, 2001, held the notification dated 20th November, 1990 bad and set aside the same. In view of such judgment, the impugned notification of reversion was issued on 9th April, 2001 not only in respect to the private respondent Nos. 3 to 7 and intervenors of the said case but also with regard to the appellant, who was not a party to the said case.

4. From the judgment dated 10th January, 2001 passed in C.W.J.C. No. 160 of 1991(R), it will be evident that the Court while set aside the Notification dated 20th November, 1990, directed the respondents to consider the cases of all eligible candidates, including the petitioner; contesting 3rd to 7th respondents and the intervenors of the said case, if otherwise eligible for promotion to the post of Field Supervisor. As the appellant was not a party to the said case, no direction was given in regard to him. Further, the appellant having already been promoted as Field Supervisor, there was no occasion for the Court to direct the respondents to consider his case.

5. From the aforesaid fact, it will be evident that the judgment dated 10th January, 2001 rendered by this Court in C.W.J.C. No. 160 of 1991(R) related to the petitioner, Binod Kumar and the contesting 3rd to 7th respondent and intervenors of the said case. The said judgment was not applicable to those who were not party to the said case, including the appellant, Emanuel Ekka. Further, the 3rd respondent, Bilokan Bara being junior to the appellant, the said respondent cannot allege any illegality and in fact not challenged the promotion. For the said reason, the 3rd respondent, in spite of service of notice and appearance, did not choose to contest this appeal at the time of hearing.

6. The respondent-Bank simply referred the judgment rendered by this Court in C.W.J.C. No. 160 of 1991(R) but failed to apply its mind that the said judgment was not applicable to those who were not party to the said case, including the appellant. The learned Single Judge also failed to appreciate the aforesaid fact and treating the case similar like other petitioner, Binod Kumar dismissed the case of this appellant. Binod Kumar was a party to the earlier writ petition C.W.J.C. No. 160 of 1991(R), so his case was different than the case of the appellant, who was not a party to the said case and the learned Single Judge failed to notice the difference between the cases of two petitioners. In this background, we have no other option but to set aside the order of reversion dated 9th April, 2001 so far it relates to the appellant, Emanuel Ekka and the impugned Order dated 18th March, 2004 passed by the learned Single Judge in C.W.J.C. No. 2024 of 2001. The appellant stands reinstated to the post of Field Supervisor (Officer) with effect from the date of revision i.e. 9th April, 2001 and shall be entitled for consequential benefit of the same, including the salary of the post of Field Supervisor. The respondents-Bank will pay the appellant the difference of salary of the intervening period within three months from the date of receipt/production of a copy of this order.

7. The appeal is allowed, with the aforesaid observations and directions.

However, in the facts and circumstances, there shall be no order as to costs.