

(2012) 01 JH CK 0134
In the Jharkhand High Court
Case No : L.P.A. No. 300 of 2011

Gyan Prakash Bakhala

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-01-2012

Acts Referred:

Citation : (2012) 01 JH CK 0134

Hon'ble Judges : Prakash Tatia, J; P.P. Bhatt, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.
2. The appellant was aspirant for the post of Constable in the selection process undertaken vide Advertisement no.1/2004. That selection process was withdrawn and, therefore, a writ petition being W.P.(S) No.1242 of 2006 was filed, which appears to have been allowed holding that the candidates who were genuinely selected, cannot be denied the benefit of selection because of certain allegation. In pursuance of decision given in the said W.P.(S) No. 1242 of 2006 fresh select list was prepared and 1085 candidates were declared successful while 932 candidates were declared ineligible. The appellant's contention is that though his name figured in select list of 1085 candidates, he has not been offered appointment. The writ petitioner then approached this Court by filing writ petition in the year 2010. The learned Single Judge observed that petitioner slept over the matter even after decision of the writ petition in the year 2006 and even when the result was declared in the year 2007. In view of the above, the petitionerappellant has preferred this Letters Patent Appeal.
3. According to the learned counsel for the appellant, Hon''ble Supreme Court in the case of M/s. Dehri Rohtas Light Railway Company Limited Vs. District Board, Bhojpur and and District Board, Shahabad and others, held that the delay in all cases cannot be fatal. It is also submitted that in this case, no right has accrued

in favour of anybody else and the respondents were giving appointment in subsequent phases, which will be itself apparent from Annexure-A dated 18th August, 2010.

4. We have considered the submission of the learned counsel for the appellant and perused the facts of the case. It is a matter of process of appointment of the year 2004 and admittedly the writ petitioner himself did not approach this Court by filing any writ petition and approached this Court only when a decision was given in W.P.(S) No.1242 of 2006 because of which he could get benefit of publication of result. This result was declared in the year 2007 and petitioner approached this Court by filing writ petition in the year 2010. It is true that in writ jurisdiction, there is no period of limitation prescribed but at the same time the delay itself is required to be explained by the applicant, who is seeking some relief from the Court in equitable jurisdiction.

5. In a matter, when there was large number of selection of the candidates to the extent of about 2000 and when the matter was before the Court in the year 2006 and result was declared in 2007, it cannot be presumed that it will not be opening of Pandora box and will result into upsetting the placement of the persons who have already been given appointment long back in the year 2007 and on subsequent dates. So far as Annexure-A is concerned, it appears to be a communication, though dated 18th August, 2010 but in pursuance of the order passed on 10th November, 2009, which is mentioned in the Annexure-A on the top. Otherwise also Annexure-A dated 18th August, 2010 is only a communication to the extent that process of selection has already been completed but it has not been mentioned when it has been completed. Therefore, it cannot be inferred that on 18th August, 2010 process of giving appointment continued.

6. Be that as it may, delay in the present case appears to be fatal. Learned Single Judge has not committed any mistake in dismissing the writ petition in the matter of seeking appointment after such delay.

7. There being no merit, the Letters Patent Appeal is dismissed.