

(2009) 10 JH CK 0047
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5013 of 2007

Humayun Kabir

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-10-2009

Acts Referred:

Citation : (2010) 58 BLJR 67

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Advocate : A.K. Sahani, for the Appellant; J.C. to S.C -III, for the Respondent

Judgement

D.G.R. Patnaik, J.—Heard learned Counsel for the petitioner and learned Counsel for the respondent State.

2. From the submissions of the learned Counsel for the petitioner it appears that this is one more addition of the several writ applications filed by the petitioner claiming his promotion to the post of Panchayat Sewak.

3. The petitioner was initially appointed on the post of Dalpati and by now he has already completed more than 20 years of service. The grievance of the petitioner is that though he has acquired the eligibility for his promotion to the post of Panchayat Sewak, his several representations in this regard remained unheeded whereupon he had to file this writ application before this Court.

Referring to the orders passed in the earlier writ applications, one of such order is the order dated 02.12.2004 passed in W.P.(S) No. 6233 of 2004, learned Counsel submits that after considering the grievance of the petitioner, this Court had directed the respondent authorities to consider the petitioner's representation and take an appropriate decision within two months from the date of order.

In compliance with the order, the concerned authorities of the respondents, namely the Deputy Commissioner, had directed the authorities of the concerned

district to consider the petitioner's case for his promotion in accordance with the stipulated Rules of the government. When no action was taken by the concerned authorities, the petitioner had again filed another writ application which was disposed of by an order similar to the order passed in the earlier writ application directing the respondents to consider and pass an appropriate order upon the petitioner's prayer for his promotion.

Learned Counsel adds that in 2005 the cases of several Dalpatis were taken up for promotion and though some of the then existing vacancies were filled up, but the petitioner was left out. Thereafter, the petitioner's name now appears at Sl. No. 1 of the gradation list.

Learned Counsel adds further that since more than four years have lapsed since the last date of promotion of the candidates, the petitioner had filed representations afresh before the concerned authorities of the respondents praying for considering his case for promotion. The Deputy Commissioner of the district, had directed the concerned authorities to consider the petitioner's case and in response the petitioner was informed by a letter (Annexure-13) of the Deputy Commissioner that out of the 14 existing vacancies, 8 have been filled up and out of the 9 posts which are to be filled up, 3 posts are to be filled up by direct recruitment. Learned Counsel adds that if this is so, the respondents ought to have taken appropriate steps in all promptness to fill up the vacancies by way of promotion. Learned Counsel adds further that the delay on the part of the respondents is likely to cause detriment to the petitioner on account of the fact that by the date of next consideration, the petitioner would suffer disqualification on the ground of age bar.

4. Learned Counsel for the respondent State, by referring to the several paragraphs of the counter affidavit, would want to submit that even as informed to the petitioner, on the last occasion i.e. in the year 2005, when the cases of the candidates were taken up for consideration, those candidates who were above the petitioner in seniority, were absorbed. The petitioner could not therefore be absorbed on account of limited number of vacancies at that time. Learned Counsel informs further that at the relevant time, there were 17 vacancies out of which 8 were filled up and since according to the Government Circular, 50% of the vacancies are to be filled up by promotion and remaining by direct recruitment, necessary instructions have been issued for filling up the vacancies by direct recruitment and necessary steps would be taken to fill up the vacancies in the promotee quota on roster basis.

5. As it appears, though the respondents have assured to fill up the vacancies by way of promotion in accordance with the Rules, but no specific time period has been assigned as to when they would undertake such action. It is apparent therefore that the respondent authorities have not been taking prompt measures for filling up the existing vacancies and the delay caused by them is bound to cause detriment to the aspirants on the ground that they may take stand to be disqualified on account of age bar.

6. Since the petitioner has been consistently and continuously pressing for his promotion since the past five years and since despite his having obtained eligibility for consideration of his case, the respondent authorities shall consider the petitioner's case for his promotion to the post of Panchayat Sewak in the existing vacancies within four months from the date of this order. If in the meantime, the petitioner has crossed the upper age limit, the same shall be condoned in the case of the petitioner.

With these observations, this writ application is disposed of.

Let a copy of this order be given to the counsel for the respondent State.