

(2001) 07 JH CK 0078

In the Jharkhand High Court

Case No : CWJC No's. 2063, 2103, 2106 and 2187 of 2001

Jairam Mirdha and Others with Kundan Kumar Das with
Suresh Kumar Chaudhory with Bankey Lal Ram

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-07-2001

Acts Referred:

Citation : (2001) 07 JH CK 0078

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : A. Allam, Anjani Kumar Verma and S.K. Dwivedi, for the Appellant;
B.S. Lal, AAG and B.B. Sinha, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhapadhya, J.—All these writ petitions have been preferred by the petitioners against a common order, contained in Memo No. 1910 dated 31st March, 2001, issued by the Registrar, Co-operative Societies, Bihar, whereby and whereunder, the services of the petitioners were cancelled, alleging Illegal appointments.

2. According to the petitioners, Class IV posts, like Peons, Jeep drivers, Night Guards etc. are of divisional cadre in the State Government. Vide Memo No. 1626 dated 10.8.1981, issued from the Co-operative Department. Government of Bihar delegated power to the Joint Registrars, Co-operative Societies, to make appointments against Class IV posts, under their respective divisions. It is stated that the earlier circular, issued by the State from the Personnel and Administrative Department vide letter No. 16441 dated 3.12.1980, in relation to appointments against Class IV posts, was ordered to be ignored.

3. The specific case of the petitioners is that the scheme, known as Tribal Development Sub-Scheme in Santhal Parganas, Division Dumka, was approved in the year, 1986, wherein, 14 posts of Peons and Night Guards were created.

The Registrar, Co-operative Societies. Government of Bihar, Patna. granted approval on 16th April, 1986, whereinafter, the Joint Registrar, Co- operative Societies. Santhal Parganas Division, Dumka, called for the names from the Employment Exchange Offices vide Memo No. 450 dated 18th April. 1986 and after due interview and selection and on recommendation of the Committee, the orders of appointment were issued to the petitioners in between December, 1986 to May, 1987. Though their appointments were made after following the procedure, after notice to the petitioners and other similarly situated persons, without considering their show cause reply, the impugned order of termination was issued on 31st March, 2001 by the Registrar, Co-operative Societies, Government of Bihar.

The jurisdiction of the Officer concerned was also challenged by the petitioners.

4. The matter was on heard 11th May, 2001 and the Court took into consideration the question as was raised, including the question as to whether the Registrar, Cooperative Societies, Government of Bihar, Patna, has jurisdiction to issue an order of termination in respect to the employees of Co-operative Department, posted within the State of Jharkhand or not. The other question, as was raised to be determined, was whether the circular, issued by the State of Bihar dated 3rd December, 1980, is applicable in the matter of appointment of Class IV employees of the Co-operative Department of the State where the appointing authority is the Joint Registrar of a Division, which consists of divisional cadre of different districts.

5. Learned counsel for the petitioners produced an order, passed by the Secretary, Co-operative Department, Govt. of Bihar. Patna, In Appeal Case No. 7 of 2001, on 26/29th May, 2001 and circulated vide Memo No. 1552 dated 31.5.2001.

6. From the aforesaid order in Appeal Case No. 7 of 2001 it appears that one San-Jeev Kumar, Deepak Kumar. Md. Mehadi Hasan, Savitri Devi and others challenged the very impugned order No. 1910 dated 31st March, 2001, whereby and whereunder, services of 73 employees, including the petitioners, were terminated. Taking into consideration the fact that their appointments were made after following all the procedure including calling for their names from the Employment Exchange and after following the reservation policy, on the recommendation of the Selection Committee, having the minimum qualification/ eligible for appointment against Class IV post and that all of them have completed more than ten years, the Secretary, Co-operative Department, Government of Bihar, Patna, held the order of termination as illegal, though there was certain defect in the matter of appointment,

7. Learned counsel for the petitioners submitted that the respondent Joint Registrar, Co-operative Societies, Santhal Parganas Division, Dumka, under whom they are working, has not yet acted as per the order of this Court dated 11.5.2001 and the petitioners are not being paid their salary.

8. It will be evident from the order of the Court dated 11th May, 2001 that the order of termination dated 31st March, 2001 was stayed, so far it relates to the petitioners. The respondents have not disputed the fact that the appointments of the petitioners were made against Class IV posts, after calling for their names from the Employment Exchange, after recommendation of the Selection Committee, including reservation policy, which is also evident from the order dated 26/29th May, 2001, passed by the Secretary, Co-operative Societies, Government of Bihar, Patna, wherein the said very order of termination was set aside and circulated vide Memo No. 1552 dated 31.5.2001.

9. For the reasons aforesaid, the impugned order, contained in letter No. 1910 dated 31st of March, 2001 is set aside, so far it relates to the petitioners, with a direction to the respondents to pay the petitioners all the consequential benefits, including the arrears of salary and the current salary.

The writ petition is allowed with the aforesaid observations and directions.

10. Writ petition allowed.