
(1997) 04 PAT CK 0030

In the Patna High Court

Case No : CWJC No. 7374 of 1995 and 1289 of 1997

Janardan Paswan and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 07-04-1997

Acts Referred:

Citation : (1997) 2 PLJR 369

Hon'ble Judges : S.N. Jha, J

Bench : Single Bench

Advocate : Asha Verma and Shakti Nath Mishra, in 7374 and Pramod Mishra, Arun Kumar and P.N. Jha, in 1289, for the Appellant; Bhriugu Nath Singh in 7374 and Akhilesh Kumar Sinha in 1289, for the Respondent

Judgement

S.N. Jha, J.—These two writ petitions have been heard together and are disposed of by this common order. The dispute relates to appointment of Dafadar and Chowkidars in the district of Madhepura.

2. On 31st October, 1994, a common advertisement was published by the District Employment Officer, Madhepura inviting applications for appointment against different kind of posts including Dafadar and Chowkidar. The number of vacancies in these two posts was mentioned as 2 and 39, respectively. The grievance of the Petitioners in CWJC No. 7374 of 1995 is that they were not given opportunity of participating in the selection process, as a matter of fact, the interview letters were not issued to them. (According to them, on superannuation/death of their respective father, they were working against the posts).

3. From the writ petition, CWJC No. 1289 of 1997 it appears that on 4th of January, 1995 interview letters were issued to the candidates including the concerned Petitioners, they were interviewed by Selection Board, said to be headed by the District Magistrate. (The composition of the Selection Board however is not clear to me). Ultimately these Petitioners were appointed on 14th August, 1995. They were sent in for training. On 18th September, 1995 they were posted in different police stations. All on a sudden their appointments were

cancelled by the District Magistrate by his letter dated 21st January, 1997 pursuant to the direction of the Divisional Commissioner contained in his memo No. 90 dated 17th December, 1996.

4. It may be stated here that CWJC No. 7374 of 1995 came up for preliminary hearing on 7th October, 1995. This Court noted the grievance of the concerned Petitioners and expressed its anguish that counter affidavit had not been filed although the writ petition was pending for more than ten months, the hearing of the case was adjourned to enable the State Counsel to take instruction. It has been suggested by the Counsel for the Petitioners in CWJC No. 7374 of 1995 that the impugned decision to cancel the appointments of the Petitioners of CWJC No. 1289 of 1997 has been taken by the Divisional Commissioner in the light of the aforesaid direction of this Court.

5. Counsel for the Petitioners in CWJC No. 1289 of 1997 submitted that there was no such direction by this Court. He contended that in any view of the matter, the Petitioners were not given opportunity of hearing. It was urged that by the reason of their appointment some rights had accrued to them and they should have been heard. Counsel also pointed out that the impugned order does not indicate at all the ground or reason for which the appointments have been cancelled.

6. The submissions of the Counsel for the Petitioners in CWJC No. 1289 of 1997 appear to be well-founded. The impugned decision appears to have been taken behind their back. Therefore, on the ground of violation of rules of natural justice alone the impugned order as contained in Annexure 6 to the writ petition (CWJC No. 1289 of 1997) has to be struck down. I order accordingly.

7. The Divisional Commissioner, Saharsa is directed to look into the matter afresh. He will give an opportunity of hearing to the appointees before he comes to any conclusion. He may also hear the Petitioners of CWJC No. 7374 of 1995 through their representative. If he comes to the conclusion that there was any illegality or irregularity in making the impugned appointments, he will direct the District Magistrate, Madhepura to take steps for fresh appointment. In that event, the Petitioners of CWJC No. 7374 of 1995 will be given a chance of selection along with Ors. (without giving them any advantage of their being the wards of the erstwhile Dafadar/Chowkidar) on merit. If, on the other hand, the Divisional Commissioner comes to the conclusion that the impugned appointments did not suffer from any infirmity he shall permit the Petitioner of CWJC No. 1289 of 1997 to continue on the posts.

8. With these observations and directions these two writ petitions are disposed of.