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In the Jharkhand High Court

Case No : Writ Petition (S) No. 2468 of 2004

Janardan Prasad Verma — APPELLANT

Vs

The Union Public Service Commission and Others — RESPONDENT

Date of Decision : 01-08-2006

Acts Referred:
Administrative Service (Appointment by Promotion) Regulations, 1955 — Regulation 5

Citation : (2007) 1 BLJR 252 : (2007) 1 JCR 64

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Advocate : Delip Jerath, J.C. to A.G., J.P. Gupta, for the Appellant;

Judgement

Permod Kohli, J.—Petitioner was recruited to Bihar Administrative Service as Sub-Deputy Collector on 07th of May, 1973 and thereafter he earned various promotions from time to time in the senior selection grade and super selection Grade I on 20th of October, 2000. He became eligible for consideration for promotion to the Indian Administrative service in the year 1999. It is alleged that no meeting was held in the year 1999 or in the year 2000 for consideration of the State Administrative Service Cadre Officers for induction to Indian Administrative Service in the promotion quota made for the State of Bihar. It was in the month of May, 2001 the Selection Committee was constituted in terms of Regulation 5 of the Indian Administrative Service (Appointment by Promotion) Regulation, 1955. The cases of eligible candidates including the petitioner were considered. As many as 32 persons were recommended for appointment by promotion out of the 54 Officers from the State Service by the duly Constituted Committee. The Committee recommended the petitioner on being found fit to be appointed to the Indian Administrative Service from the State''s Promotion Quota. However, formal appointment order could not be issued for want of "Integrity Certificate" by the State of Bihar. Petitioner preferred W.P. (S) No. 1167 of 2002 seeking a direction for issue of Integrity Certificate. This Writ was allowed vide order dated 15th of February, 2005 and following directions were

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issued.

In that view of the matter, 1 direct the Respondent-State of Bihar to issue ''Integrity Certificate'', if there is no legal impediment, within a period of 30 days from the date of receipt of copy of this order.

2. When this judgment was not complied with, a Contempt petition was preferred by the petitioner being Contempt Case (C) No. 422 of 2002. During the pendency of the Contempt petition, State of Bihar took a decision to issue the Integrity Certificate. Statement was made before the Court that the Integrity Certificate has already been issued and sent to the Union Public Service Commission by letter dated 17th of September, 2003. This Contempt petition was disposed of, accordingly with a direction to the Union Public Service Commission to deal with the matter as expeditiously as possible. Petitioner has also placed on record the Integrity Certificate issued by the State of Bihar. It is alleged that despite the aforesaid directions passed in the Contempt application and issuance of the Integrity Certificate, the claim of the petitioner has not been considered by the Union Public Service Commission and the Union of India for his appointment/ promotion to the Indian Administrative Service, despite his selection by the Competent Selection Committee and in the meanwhile petitioner has retired from the service on 31st January, 2003 on attaining the age of superannuation as Deputy Development Commissioner, Sahebganj, Jharkhand.

3. It is not in dispute that if the petitioner is inducted into Indian Administrative Service on his selection, he gets enhancement in the age of superannuation. State of Bihar has simply stated that the Selection Committee was constituted by the Unified State of Bihar and the petitioner''s claim can only be considered by the State of Bihar after reorganization. The Union Public Service Commission in its reply/ admitted that petitioner was included in the select list provisionally subject to Integrity Certificate by the State of Bihar in the I.A.S. Gradation list of undivided State of Bihar by the Selection Committee that met on 16th-17thof May, 2001 to prepare Selection list in the years 1999-2000 in pursuance to the Court''s order. The Union Public Service Commission has, however, stated that the Integrity Certificate was not received in the Commission till 15th of October, 2004. It is further mentioned that the Commission would consider making the Officer unconditional as soon as an appropriate proposal duly signed by the Chief Secretary is received from the State Government i.e. a positive recommendation of the State Government to declare the officer as unconditional alongwith an explicit Integrity Certificate. This counter Was filed on 22nd of November, 2004, whereas, the Integrity Certificate was forwarded by the State of Bihar vide its letter dated 17th of December, 2004 communicating to the Union Public Service Commission the decision of the State Government to unconditionally resolve the promotion of the petitioner to I.A.S. The copy of this communication has been placed on record as Annexure-B with the counter filed by the State of Bihar.

4. Learned Counsel appearing for the Respondent No. 1 has argued that since the petitioner has retired from service his claim cannot be considered. A similar

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issue came up for consideration before the Division Bench of the High Court of Punjab and Haryana in Civil Writ Petition No. 15426 of 1998, which was decided vide judgment dated 23rd of November, 1998. In this judgment, what was observed by the High Court of Punjab and Haryana is noticed as under:

It is the admitted position that the petitioner was eligible to be considered for promotion in the year 1994-95. It is also not disputed that his claim has not been considered. Thus, the petitioner, even if he was approaching the date of retirement when the matter was pending before the Tribunal, had a right to be considered with effect from the due date and on being found suitable, he could be fictionally granted the relief which had been denied to him for no fault of his.

5. Aforesaid judgment of the Punjab and Haryana High Court was challenged before the Hon''ble Supreme Court in Civil Appeal No. 2141 of 1999 and this Appeal was heard alongwith other connected matters. SLP was disposed of with the following observations on the basis of the consent of the parties.

We have heard learned Counsel for the parties. It is agreen between the parties that by virtue of the order passed under challenge, the respondents would be entitled only to the retiral benefits. It is agreed that the respondents would be appointed in the post in the cadre of Indian Administrative Service and also get the retiral benefits, but the promotion would be treated as notional and no other pecuniary benefits would be granted.

6. The case of the petitioner is similar. He was duly selected but further consideration could not take place in view of non-issuance of Integrity Certificate by the State of Bihar which has now been issued. The claim of the petitioner for appointment/promotion to I.A.S. is required to be considered on the basis of his selection and if otherwise found entitled to, he will be allowed the retiral benefits as a member of the Indian Administrative Service but no monetary benefit shall accrue to him.

7. Let the claim of the petitioner be considered within a period of four months.

8. Disposed of with the aforesaid observations and directions.

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