

(2002) 08 JH CK 0113
In the Jharkhand High Court
Case No : C.W.J.C. No. 475/96 (R)

Kalim Ahmad Ansari and Others

APPELLANT

Vs

The Chairman, Central Tarassar Research and Training
Institute, Central Silk Board and Another

RESPONDENT

Date of Decision : 29-08-2002

Acts Referred:

Citation : (2002) 08 JH CK 0113

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Anil Kumar Sinha, R. Krishna and Saurav Arun, for the Appellant;
S.N. Das, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard Mr. Anil Kumar Sinha, learned counsel for the petitioners and Mr. S.N. Das, learned counsel for the respondents.

2. In this writ petition, the petitioners seek for issuance of a writ of mandamus directing the respondents to issue letter of appointment to the petitioners for which all the formalities of appointment has already been completed in pursuance of notification dated 26.7.1991.

3. It appears that in the year, 1991 several persons including the petitioners were recommended by Employment Exchange for appointment against the vacancies available with the respondents on the post of Area Assistants. The respondents conducted a written test on 22.2.1992 and thereafter successful candidates including the petitioner were issued interview letters on 16.3.1992.

4. The petitioner's case is that these petitioners being successful in the interview a select list was prepared and sent to the higher authority for approval of appointment but the appointment letters have not yet been issued.

5. The respondents in their counter affidavit filed on 9.12.1996 have stated inter

alia that respondent Nos. 1 to 7 did not secure qualifying marks in the interview and the Selection Committee had not recommended the names of the petitioners Nos. 2 to 7 for appointment. It was further stated that the Selection Committee had recommended the name of the petitioner No. 1 though the petitioner No. 1 was not successful in the interview. The respondents' further case is that although names of others candidates were sent for approval but appointment could not be made because of total ban in appointment from 23.4.1992 to 13.10.1993.

6. Mr. A.K. Sinha, Sr. Counsel, in course of argument has drawn my attention to several documents annexed with the affidavits and the counter affidavits to show that even after the ban was lifted several other candidates were appointed. Learned counsel further submitted that ban was imposed only after the interview was held and the names of the selected candidates were sent for approval and for issuance of appointment letters. In respect of the averments made in the counter affidavit that neither respondents No. 2 to 7 were ever selected nor their names were ever sent for approval learned counsel produced before me the original copy of the selection list. It is the case of the petitioner is that they were called for interview and in support of that they have annexed a copy of interview letters but there is no evidence to show that the names of the petitioners including the selection list were also sent for approval.

7. Be that as it may, admittedly the written test was held and interview letters were issued in 1992 and there was complete ban in the appointment from 23.4.1992 to 18.10.1993. It is also not disputed that since then no appointment on the post of Area Assistant has been made by the respondents. In the facts and circumstances of the case, this Court cannot issue a writ of mandamus in exercise of jurisdiction under Article 226 of the Constitution of India. I have no doubt in my mind that in the facts of the case no writ of mandamus or any other writ or direction can be issued to the respondents for issuance of appointment letter. It is well settled that mere inclusion of name in the selection list does not give enforceable right to the candidate to seek a mandamus for issuance of appointment letter. Mr. Anil Kumar Sinha, Sr. Counsel referring a decision of the SC in the case of R.S. Mittal Vs. Union of India (UOI), submitted that it is true that a right is not created merely because of inclusion of name in the selection list but the employer has not shown justifiable reason to decline appointment on the basis of selection list.

8. As noticed above, there was a complete ban for appointment for a certain period and thereafter till date no approval has been given for appointment of any person on the said post. Besides the above as noticed above from the original document produced by Mr. S.N. Das it appears that these petitioners were neither selected nor their names have been sent for approval. No relief therefore can be granted to the petitioners.

9. For the aforesaid reasons I do not find any merit in this writ application which is accordingly dismissed.