
(2005) 10 PAT CK 0045
In the Patna High Court
Case No : CWJC No. 7300 of 2004

Kamal Kishore Sharan

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 04-10-2005

Acts Referred:

Bihar Reorganisation Act, 2000 — Section 72

Citation : (2006) 2 PLJR 121

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : P.K. Shahi, Renu Jha, Sanjay Kumar, for the Appellant; Dhruba Mukherjee, Spl. P.P. Mines, for the Respondent

Judgement

Radha Mohan Prasad, J.—In this writ petition, the grievance of the petitioner is against the decision of the State Advisory Committee (Cadre Division) dated 24.8.2002 contained at Schedule 2 of letter No. 5395 dated 20.9.2002 (Annexure 2), whereby and whereunder all the posts of Scientific Officer under the Mines and Geology Department, including the post of the petitioner, who were posted at Hazaribagh before creation of separate Jharkhand State have been earmarked for Jharkhand State and this has resulted in that the names of all the five Scientific Officers, including the petitioner have not been recommended by the Cadre Division Committee to the Union of India as required under the provision of Section 72 of the Bihar Reorganisation Act, 2000. In the writ petition it is stated that the Government of Bihar in the Mines and Geology Department vide letter No. 2384 dated 16.10.2003 (Annexure 4) of the Deputy Secretary wrote to the Member Secretary, State Advisory Committee that in the undivided Bihar, centralized laboratory for testing was established at Hazaribagh by the Department and, therefore, the laboratory alongwith its six employees must be bifurcated between the two States so that Geological investigation in Bihar may be carried out properly.

2. A counter affidavit has been filed on behalf of the Advisory Committee

(respondents No. 3 and 4). In paragraph 17 of the said counter affidavit it is admitted that said letter (Annexure 4) was received in the Committee but since the said letter was written more than a year after the publication of TFAL (Tentative Final Allocation List) and the division of posts, the Department was reminded vide letter No. 613 dated 19.11.2003 of the fact that the bifurcation of posts and personnel in this cadre had been done based on the information furnished by the Department itself. It is further stated that if the department had anything else under its consideration they may inform the Committee, to which there was no response, according to the said respondents.

3. In paragraph 6 of the supplementary counter affidavit filed on behalf of the officials of the State of Bihar it is stated that after bifurcation of the State, the Centralised Geological Laboratory, Hazaribagh remained in the territorial jurisdiction of the Jharkhand State and there is no laboratory in the State of Bihar. According to the said respondents, the Geological Laboratory is essential for the State of Bihar also to analyse the geological and geochemical analyses of minerals and drinking water samples as per the requirement and it is due to that purpose Annexure 4 was issued.

4. In view of the said statement, learned counsel appearing for the Advisory Board (respondents No. 2 and 3) has fairly submitted that this writ petition can be disposed of with a direction to the Committee to proceed with the matter and take final decision after seeking necessary further information, if required, from the concerned State within a fixed time as, in the facts and circumstances, is considered by this Court to be proper.

5. Accordingly, this writ petition is disposed of with the direction to respondents No. 2 and 3 to consider the demand made by the State of Bihar in Annexure 4 and take final decision after getting necessary further information, if required, from the concerned State within three months of the receipt/production of a copy of this order. It is needless to add that after taking final decision, the Advisory Committee shall also consider the cases of the employees/officers working in the said department for purpose of their allocation to the respective States within the aforesaid time.