

(2001) 02 JH CK 0012

In the Jharkhand High Court

Case No : CWJC No"s. 3930 of 1999 (R) and 405, 408, 670, 2284 and 2298 of 2000 (R)

Kamal Kishore Tiwary and Others, Dheer Sen Bhagat,
Ravindra Singh, Manoj Kumar Singh, Ramesh Kumar Pathak
and Uma Shankar Tiwari

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 06-02-2001

Acts Referred:

Citation : (2001) 49 BLJR 1619 : (2005) 2 JCR 97

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

Bench : Single Bench

Advocate : K.K. Singh, V. Shivnath, M.M. Sharma, R.P. Gupta and A.K. Singh,
for the Appellant; A.G., for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—All these writ applications relate to appointment of constables pursuant to the advertisement issued by the State of Bihar. The common grievances of all the writ petitioners are that although they qualified in the physical test, the appointment letters could not be issued to them on the ground of alleged deficiency in the height. Since common grievances have been made out by all the writ petitioners, these cases are being heard and disposed of by this common order.

2. First I will discuss the pleadings of the parties as pleaded in the writ applications and counter affidavits.

CWJC No. 3930/99 (R) : This writ application is confined only to Petitioner Nos. 2 and 4. The petitioners case is that pursuant to notification dated 28.8.1999 they applied for their selection and appointment on the post of constable and after scrutiny they were allotted Roll Nos. 2266 and 5908 respectively. On 19.4.1999 physical test was conducted by the respondents but they were not selected and

no appointment letter was issued by the respondents. In the counter affidavit the respondents' case is that according to the final selection list prepared by the Selection Committee, candidates belonging to different categories have been selected on different minimum heights. For general caste (Home Guard Trained) the minimum height was 172.05 cm while for backward caste (Home Guard Trained) the minimum height was 172 cm. It is stated by the respondents that on measurement the height of Petitioner No. 2 was found as 171.08 cm while the height of Petitioner No. 4, who belongs to general category, was found as 172 cm. Since Petitioner Nos. 2 and 4 were less than the minimum height prescribed, they were not selected for appointment.

CWJC Mo. 670/2000 (R): In this case the grievance of the petitioner is that although he qualified in the physical test and his height was more than the required height but his case for appointment was not considered. On the other hand, the case of the respondents is that the height of the petitioner was found as 172 cm and the petitioner himself put his signature in the muster chart where his height was recorded. The respondents further denied the allegation that persons having less height have been appointed.

CWJC No. 405/2000 (R): In this case the grievance of the petitioner is that although he possesses the height of 172.9 cm but his case for appointment was not considered. While the case of the respondents is that the height of the petitioner was measured as 171.8 cm which was recorded in the muster chart and the petitioner put his signature on the said chart.

CWJC No. 408/2000 (R): In this writ application the grievance of the petitioner is that although he was possessing the height of 172.5 cm and as such he was fit to be appointed but the appointment letter was not issued to him, although many other candidates having lesser height have been appointed. The case of the respondents is that the petitioner belongs to general category and was not possessing the Home Guard Training Certificate. His height was measured as 171.4 cm. The petitioner himself put his signature in muster chart accepting his height as 171.4 cm.

CWJC No. 2284/2000 (R): In this writ application the petitioner has claimed his height as 177.5 cm but his case was not considered. Although persons having lesser height have been given appointment. The case of the respondents is that the minimum height prescribed for those candidates of general category having no Home Guard Training Certificate was 180.2 cm. It is stated that no person less than 180.2 cm in height of general category having no Home Guard Training Certificate have been appointed.

CWJC No. 2298/2000 (R) : In this writ application the grievance of the petitioner is that he is having the height of 179.5 cm but he was not appointed while persons having lesser height have been appointed. In the counter affidavit the respondents have stated that the petitioner, who is having no Home Guard Training Certificate, was measured and his height was found as 179.2 cm. It is

contended that since the petitioner was possessing lesser height than the height prescribed for general category, his case for appointment was not considered.

3. From the pleadings of the parties, it is evident that all the petitioners were subjected to physical test conducted by the respondents and in course of physical test their height was measured and the same was recorded in the muster chart which was prepared at the time of physical test and in token of correctness of the measurement of height the petitioners put their respective signatures in the same chart. When the petitioners were not selected and appointments letters were not issued to them, they have made a grievance that persons having lesser height have been appointed ignoring the case of the petitioners. In some cases the grievance made by the petitioner is that persons having same height have been given appointment. On the other hand, the case of the respondents is that the candidates possessing better height in particular category have been appointed.

4. After having gone through the affidavits of the parties and after considering the submissions made by the learned counsels, I am of the opinion that merely because the petitioners allegedly possessing the required height does not create any indeceasible right to be appointed. Even assuming that the candidates possessing similar height than that of the petitioners have been appointed that also does not create a right of appointment unless it is proved that persons possessing lesser height in a particularly category have been appointed ignoring the case of the petitioners. This Court, in exercise of writ jurisdiction, cannot examine the entire process of selection. In similar facts of the case a Division Bench of this Court in the case of Director General Military Police v. Prasanna Kumar Putpingua (LPA No. 242/99 (R)), held that a candidate possessing minimum height merely makes him eligible for appointment but it does not create any right to be necessarily appointed.

5. It has not been disputed by the petitioners that the physical test was being conducted by the responsible officers who are experts in their field. On the basis of physical test the selection was made by the Selection Committee consisting of experts of the Police Department. In such circumstances, I am of the opinion that when the selection is made by the expert keeping in view the relevant provisions of the Police Mannual and due consideration of the relevant facts, this Court should be very slow to interfere in such recommendation. In this connection reference may be made to a decision of the Apex Court in the case of Dr. M.C. Gupta and Others Vs. Dr. Arun Kumar Gupta and Others, .

6. Having regard to the facts of the case and the discussion made above, no relief can be granted to the petitioners. These writ applications are dismissed.

7. Writ applications dismissed.