
(2001) 06 PAT CK 0035
In the Patna High Court
Case No : C.W.J.C. No. 2409 of 2001

Kespaw Prasad Sinha and Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 25-06-2001

Acts Referred:

Citation : (2001) 4 PLJR 232

Hon'ble Judges : Shashank Kr. Singh, J

Bench : Single Bench

Advocate : Shyama Prasad Mukherji, Gyanand Roy and Shanti Pratap, for the Appellant; R.P. Bhagat, for the Respondent

Judgement

Shashank Kr. Singh, J.—Heard learned Counsel for the Petitioner and the learned Government Pleader No. 4 for the State and perused the counter affidavit filed on behalf of Respondent No. 2, Secretary, Rural Development Department, Govt. of Bihar, Patna.

2. The present writ application has been preferred for commanding the Respondents to accept the joining of the Petitioners on the post of Panchayat Sewaks in the District of Saran (Chapra).

3. Contention of the learned Counsel for the Petitioners is that the State Govt. vide letter No. 2810 dt. 20.8.1998 sanctioned 843 additional posts of Panchayat Sewaks which were created after re-organization of the Gram Panchayat. In the counter-affidavit and the letter, itself, it is stated that out of 843 newly created posts of Panchayat Sewaks appointment will be made only on 403 posts in the first phase. As far as remaining 440 vacancies are concerned appointments were to be made after the Gram Panchayat Election, which has now already been held. Admittedly, as far as the case of these Petitioners are concerned they had been working as Dalpatis and had been duly selected for training as Panchayat Sewaks. After their selection they had been sent for training and had already undergone the training as Panchayat Sewaks. As such a prayer has been made

for directing the Respondents to appoint them.

4. The stand of the State appears to be quite peculiar specially in view of the fact that it has been admitted by the counsel for the State that Petitioners were performing the duties of Dalpatis and were duly qualified to be selected as Panchayat Sewaks. It has also been accepted by the learned Counsel that they had been selected and had been sent for training and had imparted the training as Dalpatis. It has further been contended that as per annexure-11 which is a letter dt. 15.4.2000 issued by the Rural Development Department (Panchayat Raj Directorate) to all the District Magistrates and the Deputy Commissioners in which it has clearly been directed that as far as Panchayat Sewaks were concerned they will be getting only stipend during the period of training and would be paid their salaries after training only if they were within the strength of Panchayat Sewaks in the aforesaid districts. Strangely in the present case it has also been accepted by the State that the Petitioners come within the sanctioned strength of the District of Saran (Chapra). It had also been accepted that their selection was made by the appropriate authority and they were duly trained. It had not been denied that other persons similarly situated had been appointed as Panchayat Sewaks but in the present case the only difficulty which the State is facing, as per the counter-affidavit of the Secretary of the Department and the learned Counsel for the State, is that by annexure-1 there is a ban on appointments. The said annexure is dt. 27.7.1998.

5. When the State Government was confronted with these two annexures, i.e., annexures-1 & 11 and asked as to why annexure-11 be not considered which was issued on 15.4.2000 to have modified the earlier ban, to the extent it related to the Panchayat Sewaks and if the ban was continuing, how other similarly situated persons had been appointed as it had been stated by the learned Counsel for the State himself (as persons similarly situated have been appointed in different districts of the State as would be clear from Annexures-12 & 13 to the writ petition which have been filed by way of example). It would further go to show that the said appointment had not only made in view of the order passed by this Court or by any other competent court but also on regular basis through selection process. As such, the State cannot be allowed to discriminate between a citizen and a citizen, some time acting on Annexure-11, to suit some persons when in a different way as far as the Petitioners are concerned by taking shelter under Annexure-1 by saying that there is ban on appointments.

6. As it being a clear case of discrimination, as it is an admitted fact that the Petitioners are within the prescribed sanctioned post of Panchayat Sewaks in the district of Saran (Chapra) and as they have already imparted training at the cost of the State and as similarly situated persons have already been appointed, as such, I direct the Respondent-State to consider the case of the Petitioners and pass appropriate orders with regard to their appointments within a period of four weeks from the date of receipt/production of a copy of this order.

7. As far as the payment of salary is concerned for the period when the

Petitioners are under training or otherwise, they shall file a detailed representation before the Respondent-District Magistrate, Saran (Chapra), who, if such a representation is filed, shall dispose of the same in accordance with law within a period of two months from its date of filing.

8. With the aforesaid observation/ directions this application is, accordingly disposed of.