
(2014) 01 JH CK 0092
In the Jharkhand High Court
Case No : L.P.A. No. 243 of 2009

Kumari Bharti Singh

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 07-01-2014

Acts Referred:

Citation : (2014) 3 AJR 341

Hon'ble Judges : R. Banumathi, C.J; Aparesh Kumar Singh, J

Bench : Division Bench

Advocate : Kailash Prasad Deo, Advocate for the Appellant; Sanjoy Piprawall, Advocate for the Respondent

Judgement

1. This appeal is preferred against the order dated 18.4.2009 passed in W.P (S) No. 5234/2008. Pursuant to the direction issued in W.P. (S) No. 1059/2006, steps were initiated by the respondents for identifying and filling up the vacancies in various teaching faculties existing in the constituent colleges of the Universities within the State. Each of the Universities had identified the existing vacancies and had intimated the State Government. On communication from the State Government, Jharkhand State Public Service Commission (JPSC) initiated the process of selection by publishing an advertisement on 30.1.2007 containing the conditions relating to eligibility criteria; vacancy position of teaching faculty in the various Universities and the number of vacancies to be filled up in various categories. The appellant applied for appointment in the faculty of English.

2. JPSC published the list of selected candidates on 15.1.2008, but the appellant's name did not figure in the select list. The appellant sought information under RTI Act on 29.1.2008 and as per the information given to her, she secured 54 marks for her academic performance and 18 marks for interview. The last candidates, whose names were recommended for appointment to the post of Lecturer, had secured 75.25 marks. It is the case of the appellant that as against 47 vacancies advertised for general category in the subject of English, only 44 candidates were recommended and as per the information obtained

under the RTI Act, the appellant learnt that there were 5 vacancies on account of non-joining of two candidates in Ranchi University and three candidates resigned in Binoba Bhave University. The appellant filed writ petition (W.P (S) No. 5234/2008) seeking for her appointment against non-joining of the recommended candidates of general category on the post of Lecturer in English. Learned Single Judge dismissed the writ petition holding that "the selection process has been completed for the current session and it would not proper for extending the validity of the existing two vacancies from the wait list of the select list panel". Learned single Judge further held that "the appellant appeared as 47th candidate and there being tussle between her and four other candidates who had secured the same marks as the appellant had" and therefore, appellant's prayer for directing the respondents to grant her appointment against the two vacant posts is not tenable and on those findings, dismissed the writ petition.

3. Being aggrieved by the dismissal of the writ petition, the appellant has preferred this intra-court appeal. In the letters patent appeal, by the order dated 12.10.2009, this Court directed the State and JPSC to follow the procedure for filling up the English vacant posts by recommending the names of the candidates who were eligible for appointment against the four vacant posts, which had occurred including the name of the appellant and report to the Court in regard to their recommendation on the next date. Order dated 12.10.2009 reads as under:--

"Having heard counsel for the parties at some length and also from the information gathered from the order-sheet passed in the writ petition including the order dated 18.12.2008 out of which this appeal arises, four persons who had been selected and recommended for appointment to the post of Lecturer in English had not joined. Hence the plea of the petitioner/appellant herein who was the second eligible candidate for selection and was not granted any seat in spite of non-joining of the four candidates who had been recommended for appointment, we direct the respondent-State and the J.P.S.C. to follow the required procedure for filling up the vacant posts of English lecturer by recommending the name of the candidates who were eligible for appointment against the four vacant posts which had occurred including the name of the appellant and report to this Court in regard to their recommendation on the next date.

The matter be posted again on 30.10.2009".

The said order dated 12.10.2009 was challenged before the Supreme Court in SLP and the same was dismissed.

4. Earlier when the matter came up on 27.11.2013, learned counsel appearing for the JPSC has submitted that since the SLP preferred against the order dated 12.10.2009 has been dismissed, JPSC, after getting the vacancy position from the State of Jharkhand, would take steps to comply with the order dated

12.10.2009 and requested for grant of three weeks further time for filing supplementary counter-affidavit. By the order dated 27.11.13, we also directed the State to supply necessary information relating to the vacancy position of different Universities against which the JPSC is supposed to carry out the exercise as per order dated 12.10.2009.

5. When the matter came up on 27.11.2013, the learned counsel appearing for the appellant submitted that the S.L.P being S.L.P.(C) No. 35974 of 2009 preferred by the State against the order dated 12.10.2009 has been dismissed by the Hon"ble Supreme Court. The relevant portion of order dated 27.11.2013 passed by this Court is quoted hereinbelow:

"The appellant is represented by the counsel. Learned counsel for the appellant has submitted that SLP preferred by the State against the order dated 12.10.2009 passed by the Division Bench of this Court, has been dismissed by the Hon"ble Supreme Court vide order dated 5.9.2013.

Learned counsel appearing for the State and the JPSC also submit that the SLP preferred by the State has been dismissed by the Hon"ble Supreme Court. Learned counsel appearing for the JPSC has submitted that since the SLP preferred against the order dated 12.10.2009 has been dismissed, JPSC after getting the vacancy position from the State of Jharkhand, would take steps to comply with the order dated 12.10.2009. In this regard, he requests for three weeks time for filing supplementary counter-affidavit.

Learned counsel for the State of Jharkhand also requests for time to collect information from the three universities regarding their vacancy position and sent it to the JPSC.

Post the matter on 2.1.2014".

6. Again on 2.1.2014, learned counsel for the State requested time to furnish the vacancy position in the above three universities (Ranchi University, Vinoba Bhave University and S.K.M. University) to JPSC so as to enable the JPSC to comply with the order dated 12.10.2009. In this regard, learned counsel for the State sought two days time. However, as requested, the matter was again ordered to be listed on 7th January, 2014.

7. On 7.1.2014 when the matter was taken up, the learned counsel for the respondent-State again seeks time for furnishing the aforesaid vacancy position to the JPSC. It appears that in spite of repeated adjournments, the State of Jharkhand has not furnished the vacancy position to JPSC to enable the JPSC to comply with the order dated 12.10.2009. We do not appreciate the lack of diligence of the State of Jharkhand in not collecting the required vacancy position from the above universities and furnishing the same to the JPSC to enable the JPSC to comply with the order dated 12.10.2009, in spite of the repeated adjournments granted by this Court. Having undertaken to furnish the vacancy position from three Universities and send it to JPSC to enable JPSC to comply

with the order of this Court dated 12.10.2009, the State of Jharkhand should have taken steps to furnish the vacancy position to JPSC.

8. We, therefore, direct the State of Jharkhand to furnish the vacancy position, on account of non-joining of the candidates in respect of the recommendation made by the JPSC in the year 2008, to JPSC within four weeks from the date of receipt of copy of this order and on receipt of such vacancy position the JPSC shall comply the order dated 12.10.2009 passed by this Court within a period of four weeks thereafter. With the above direction, this L.P.A. is allowed accordingly.