
(2001) 06 JH CK 0031
In the Jharkhand High Court
Case No : CWJC No. 1911 of 2000

Lal Bahadur Prasad

APPELLANT

Vs

Bihar College Service Commission and Others

RESPONDENT

Date of Decision : 28-06-2001

Acts Referred:

Citation : (2001) 06 JH CK 0031

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

Bench : Single Bench

Advocate : M.S. Anwar and Rajesh Kumar, for the Appellant; I. Sen Choudhary, V.P. Singh and Kalayan Roy, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—In this writ application the petitioner has challenged the validity of the action of respondents 2 and 3 in making appointment on the post of lecturer in Bokaro Mahila College ignoring the recommendation of the Bihar College Service Commission. The petitioner has also prayed for quashing the appointment of respondent Nos. 4, 5 and 6 on the post of lecturer in the said college.

2. The facts of the case are not much in dispute. The college, namely, Bokaro Mahila College, Bokaro Steel City, Bokaro is an affiliated college of Binoba Bhave University and is governed by the Bihar State Universities Act and Statute. The State Government sanctioned five posts of lecturers in Geography in the said college. The Bihar College Service Commission (shortly the Commission) advertised two posts of lecturer in Geography in the year, 1988. The petitioner applied for the said post and was called for interview. After he was selected, a letter dated 19.7.1999 was issued by the Commission informing the petitioner that his name has been recommended for appointment on the post of lecturer in Geography in the said college. The Commission also took interview of other candidates for the remaining posts and sent recommendations to the Governing Body of the college. The petitioner was recommended by the Commission as first

name on the third post and respondent No. 5 was second name against the third post. Respondent No. 6, wife of respondent No. 5 was recommended as second name on the fourth post. The petitioner has specifically alleged in the writ petition that the Governing Body of the College kept the matter pending and delayed the appointment and, as a matter of fact, respondent No. 3, the Principal of the college, demanded Rs. 60,000/- from the petitioner for making his appointment. When the petitioner did not oblige respondent No. 3, she, with an ulterior purpose, appointed the second candidate on the second post of lecturer ignoring the case of the petitioner who ranked top in the list for appointment against the second post. It appears that Smt. Mad-humati Deonath, respondent No. 4 who was at serial No. 2, was appointed against second post although she could have been appointed against third post whereas her name stood at serial No. 1. Similarly, respondent No. 5 was appointed against third post although his name stands at serial No. 2 in the recommendation. Respondent No. 6 who is the wife of respondent No. 5 was also appointed against fourth post although her name stands at serial No. 2 against fourth post and serial No. 1 against fifth post. The petitioner has also contended that he belongs to backward class and as per the reservation" rules the college was bound to follow the rule and in that view of the matter also the petitioner could not denied appointment.

3. The only question that falls for consideration is as to whether respondent No. 2, the Governing Body, was bound to follow and implement the recommendations of the Commission in its true letter and spirit.

4. As per law and rules the Commission recommended two posts for appointment of lecturers and in order of preference the Governing Body was to make appointment as per the recommendation of the Commission. It is well settled that when the Commission or the Board selects a candidate in order of merit and appointment is to be made strictly in order of merit as recommended by the Commission, the authority cannot alter the order of merits except for valid reasons. Reference in this connection may be made to several decisions of the Supreme Court reported in *Jatinder Kumar and Others Vs. State of Punjab and Others*, and *Chancellor v. Shankar Rao and Ors.*, (1999) 6 SCC 255 .

5. Exactly in similar circumstances a Bench of the Patna High Court in the case of *Trilokinath Upadhyaya v. Chairman Bihar College Service Commission and others*, CWJC No. 9819/98, held that the appointment of second candidate on the post of lecturer in History in the college ignoring the recommendation of the Commission is bad in law. This case is squarely covered by the said judgment.

6. The counsels appearing for the respondents have tried to Justify the action of the Governing Body but from perusal of the counter affidavit I am satisfied that the Governing Body of the College has acted illegally and arbitrarily and its action is mala fide.

7. This writ application is, therefore, allowed and the decision of the Governing Body appointing respondent Nos. 4, 5 and 6 on second, third and fourth post, is

quashed. The matter is remitted back to the Governing Body with a direction to implement the recommendation of the Commission strictly In accordance with law and take a fresh decision for appointment of the petitioner and other respondents in order of merit.

8. Writ Petition allowed.