
(2007) 11 PAT CK 0046
In the Patna High Court
Case No : CWJC No. 10569 of 2007

Lalan Kumar Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 05-11-2007

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2008) 2 PLJR 341

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Advocate : Chandra Shekhar, Ganesh Pd. Singh and Mukesh Kr. Thakur, for the Appellant; A.S. Jha, Shankar Kr., R. Tiwary, Ram Bhushan Pd. and Sanjay Prakash Verma, for the Respondent

Judgement

V.N. Sinha, J.—Heard learned counsel for the petitioners and the State and these applications are disposed of after culling out admitted facts from CWJC No. 10569 of 2007. Petitioners have tiled these writ applications praying inter alia to quash the instructions of the Director, Agriculture to terminate their services as contained in order, bearing Letter No. 2494 dated 20.7.2007, Annexure-1 and the consequential office order, bearing Memo No. 761 dated 27.7.2007, Annexure-1/A in CWJC No. 10569 of 2007, whereunder the Joint Director, Agriculture, Kosi. Division, Saharsa has terminated their services. Perusal of Annexure-1 would indicate that direction to terminate the services of the petitioners has been issued as their appointment itself was found violative of Articles 14 and 16 of the Constitution of India as according to the authorities, the appointment was made without resorting to any selection process.

2. Learned counsel for the petitioners in these writ applications have submitted that the petitioners and others were appointed on various Class III/IV post by the Joint Director, Agriculture, Kosi Division, Saharsa way back in the year 1984-85 after calling for names for such appointment from the Employment Exchange as is required under different circulars of the State Government and

the observation of the Director, Agriculture, Bihar in the impugned Annexure-1 that the appointments were made without resorting to any selection process, is absolutely incorrect. In this connection, they refer to the orders of the Division Bench of this Court dated 15.12.1992, passed in CWJC No. 4339 of 1992, Annexure-2 in CWJC No. 10569 of 2007. Perusal of the said order indicates that earlier the State-respondents transferred the services of the petitioners and the others to a temporary scheme and the matter came to this Court in CWJC No. 4339 of 1992 when the State-respondents having considered the nature of appointment of the petitioners through learned Advocate General made concession before this Court that the petitioners and the others, notwithstanding the transfer of their services to a temporary scheme, need not worry about their continuation in service as their lien against the permanent post was protected. Ignoring such concession recorded by learned Advocate General, the State-respondents have issued show cause notice dated 27.1.2001, Annexure-3 in CWJC No. 10569 of 2007, in response whereeto, petitioners and others submitted their reply dated 20.2.2001, Annexure-4 in CWJC No. 10569 of 2007 disputing the allegations made out in the show cause notice. The State-respondents kept the show cause pending for about five years and thereafter the Director, Agriculture passed the impugned order dated 20.7.2007, Annexure-1 directing termination of the services of the petitioners. Learned counsel for the petitioners further submitted that while issuing such direction, learned Director, Agriculture even ignored the order of the Directorate dated 29.7.2006, Annexure-5 in CWJC No. 10569 of 2007, whereunder petitioners were even allowed the benefit of Assured Career Progression.

3. It appears from perusal of the impugned order dated 20.7.2007 that the same does not take into account the contentions of the petitioners raised in the show cause reply and is absolutely cryptic. In the circumstances, this Court has no option but to quash the impugned direction contained in order dated 20.7.2007, Annexure-1 in CWJC No. 10569 of 2007 and consequential termination order dated 27.7.2007, Annexure-1/A and the matter is remitted back to the Director, Agriculture to consider the show cause reply of the different petitioners in the light of the concession recorded by the learned Advocate General before the Division Bench of this Court under order dated 15.12.1992, Annexure-2 in CWJC No. 10569 of 2007 as also the claim of the petitioners that they were appointed by the Joint Director, Agriculture, Kosi Division, Saharsa way back in the year 1984-85 against the sanctioned vacancy after calling for their names from the Employment Exchange as is required by the different circulars of the State Government.

4. It is, however, made clear that if the petitioners have been appointed by the Joint Director, Agriculture, Kosi Division, Saharsa in the year 1984-85 without calling for the names from the Employment Exchange as also without resorting to selection process then on such ground alone their show cause may be considered and rejected by the Director, Agriculture in accordance with law. These writ applications are, accordingly, disposed of.