
(2003) 09 JH CK 0080

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3796 of 2003

Mahendra Prasad Gupta and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 05-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 3 BLJR 1998 : (2003) 4 JCR 37

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : A. Allam, Pankaj Kumar, N. Sharmin and Sandhya Singh, M.M. Banerjee and A. Sen, for the Appellant; A.K. Mehta, SC-I and M.L.K. Chitra, J.C., for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—The writ petition has been preferred by the petitioners for the following reliefs :

(a) Declare the results of the petitioners as passed pursuant to the examination held in view of Judicial Service (Recruitment) Rules 2001;

(b) Disclose and supply the marks of main and Viva Voce examination of Jharkhand Judicial Service, 2001 to the petitioners forthwith;

(c) Cancel the entire appointment of the Subordinate Judicial Service Examination, 2001, the result of which was declared in the newspaper on 16.3.2002 (Annexure-4) since it was not conducted pursuant to the advertisement for the post of Munsif in the Jharkhand State (Annexure 2) and also the said examination was not been held pursuant to the rules framed for the purpose and published in the Jharkhand Gazette on 20.8.2001;

(d) Any other relief for which petitioners are entitled under the law.

2. The main plea taken by the petitioners is that they suspect that they have

been wrongly eliminated from the zone of appointment having been shown unsuccessful because of minimum qualifying marks prescribed for Viva Voce Test.

3. The counsel for the petitioners submitted that rule known as Jharkhand Judicial Service (Recruitment) Rules, 2001 (for short Rule 2001) was framed by the State Government Gazetted on 20th August, 2001, in exercise of powers conferred by Article 234, read with Article 309 of the Constitution of India. In the said rule, though minimum qualifying marks for the Written Test was prescribed, but no minimum qualifying marks was prescribed for Viva Voce Test (Interview).

4. A regulation has been framed by the High Court of Jharkhand, Therein also, no minimum qualifying marks has been prescribed for Viva Voce Test (Interview).

5. It was submitted that the petitioner apprehended that irregularities were committed in the matter of selection and appointment to the post of Munsif as made by the State of Jharkhand on the recommendation of the High Court of Jharkhand, As per Rule 2001, a candidate belonging to the Scheduled Caste (SC) or Scheduled Tribe (ST) Category ought to have been placed in the General Category, provided he/she obtained 45% marks in the Written Test but it was not followed. On the other hand, qualifying marks in written test of SC and ST category candidates was illegally reduced to 26%.

6. The Registrar General of the High Court of Jharkhand Ranchi has filed a counter affidavit denying the allegation of any irregularity or illegality committed in the matter of selection and appointment of Munsifs.

7. He was asked by the Court to remain present in the Court along with the marks obtained by the petitioners and to let the Court know as to the minimum cut off marks upto which appointment has been made out of the persons belonging to General Category.

8. The Registrar General, High Court of Jharkhand, Ranchi presented himself before the Court in compliance thereof with the marks obtained by the petitioners and others and has also given the minimum cut off marks upto which persons selected and appointed as Munsif from amongst the General Category.

9. The case was heard, in detail, for disposal at this stage, as agreed by the counsel for the parties.

10. In this case, it is not in dispute that the petitioners belong to General Category, and have no right to claim appointment against the posts which are/were reserved for SC and ST Categories.

11. In this background, this Court is not Inclined to determine whether any qualifying marks in the written test for SC and ST Categories reduced upto 26%, is legal or not.

12. One can notice from the averments made by the parties that only four SC and ST candidates originally qualified for Viva Voce Test. In this background, the High Court in its Full Court meeting dated 29th January, 2002 reduced the

qualifying marks to 26% to enable a number of SC and ST candidates to appear in the Viva Voce Test.

13. From the mark sheets produced by the Registrar General, it appears that the last persons selected for appointment from General Category obtained a total of 59.16 marks i.e. Written Test + Viva Voce Test. On the other hand, the petitioners herein having obtained lesser marks than the person last appointed, were not selected, having come within the zone of consideration. To make it clear so that there may not be any confusion in the minds of the petitioners, the Court feels it proper to quote herein below the marks obtained by the petitioners in the Written Test as well as In the Viva Vice Test.

Sl. No. Name of candidate Roll No. Marks obtained in Main Exam Marks obtained in Viva Voce Total

1 2 3 4 5 6

1. Sri Mahendra Prasad Gupta ? Petitioner No. 1 8403226 45.00 6 51.00

2. Sri Yogendra Saplarishi ? Petitioner No. 5 8403680 44.57 6 50.57

3. Sri Birendra Saplarishi ? Petitioner No. 4 3401144 43.55 6 49.55

4 Sri Girija Nandan Pathak ? Petitioner No. 3 7402901 37.50 9 46.50

5. Sri Amar Singh ? Petitioner No. 2 1400105 36.91 6 42.91

In the facts aforesaid, it is evident that the submission of the petitioner is incorrect, as they had not come within the zone of appointment.

14. So far as prayer for cancellation of appointment of the Officers selected in pursuance of the Rules, 2001, is concerned, first of all, no case is made out to hold that the selection was not in accordance with law.

15. Secondly, the petitioners having not come within the zone of appointment, have no right to challenge the selection.

16. Thirdly, the persons who were selected and appointed to the post of Munsif, being not made party respondents to the present case, no relief can be granted.

17. This apart, more than one and half years from the date of appointment having past, no relief should be granted at this belated stage. There being no merit in the writ petition, it is, accordingly, dismissed.

18. The original Mark Sheets/Tabulation Chart is being handed over to the learned Registrar General, High Court of Jharkhand, Ranchi who is present in the Court.