
(2025) 10 JH CK 1289
In the Jharkhand High Court
Case No : Writ Petition (S) No. 3122 Of 2020

Md. Aamir Aftab

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 16-10-2025

Acts Referred:

Constitution of India, 1950 — Article 311
Bihar Reorganization Act, 2000 — Section 23, 24, 72, 73

Citation : (2025) 10 JH CK 1289

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Dhananjay Kumar Dubey, Ratnesh Kumar

Final Decision : Allowed

Judgement

Deepak Roshan, J

1. The instant writ application has been preferred by the petitioner for the following reliefs:

"i) For quashing of Memo No.752 dated 12.05.2020 [Annexure-10] issued by Deputy Inspector General of Police (Special Branch), Ranchi whereby the petitioner was dismissed from service on the ground that the Caste Certificate submitted by the petitioner is not in proper format.

ii) For quashing of the Memo No.1325 dated 24.08.2020 [Annexure-12] issued by the Superintendent of Police (Est.), Special Branch, Ranchi whereby the Memo of Appeal preferred by the petitioner before Director General of Police, Jharkhand has not been entertained.

(iii) For direction upon the respondents to reinstate the petitioner in service with all consequential benefits including back wages after quashing Memo No.752 dated 12.05.2020 [Annexure-10] and Memo No.1325 dated 24.08.2020 [Annexure-12].

AND/OR

Pass such other Order or Orders as Your Lordships may deem fit to do proper and conscionable justice to the petitioner.”

2. The brief facts of the case as per the pleadings of the writ application is that the petitioner applied for the post of Sub Inspector of Police in Jharkhand Combined Police Competitive Examination-2017 and was declared successful. Thereafter vide Memo No. 307 dated 17.07.2018 the appointment letter was issued and the petitioner was sent for training at Jharkhand Police Academy, Hazaribagh. On completion of training the petitioner gave his joining at Special Branch, Jharkhand and thereafter at DC Office, Simdega.

Thereafter, vide Memo No.621 dated 25.03.2020 the petitioner received show-cause with regard to his caste and residential certificate to which the petitioner duly replied. Further vide Memo No. 752 dated 12.05.2020, the petitioner was terminated from service against which the petitioner preferred an appeal/memorial before the Director General of Police, Jharkhand which was rejected and was communicated to petitioner vide Memo No. 1325 dated 24.08.2020. Being aggrieved, the petitioner has preferred the instant writ application.

3. Learned Counsel for the petitioner submits that the petitioner’s father was allocated to the State of Jharkhand and he was also born in the State of Jharkhand, therefore, as per clause 2(iii) of the Resolution No. 3198 dated 18.04.2016 issued by the Department of Personnel, Administrative Reforms & Rajbhasa, Government of Jharkhand, the petitioner is the resident of State of Jharkhand and belongs to EBC-I Category.

It has been further submitted that the respondents have not considered the submissions of the petitioner and also have not followed the procedure prescribed under Article 311 of the Constitution of India as such, the actions of the respondent authorities are illegal, arbitrary and without jurisdiction.

4. Learned Counsel for the respondent-authorities relying upon the counter-affidavit had submitted that as per departmental instruction contained in Letter No. 6763 dated 05.08.2016, those persons whose forefathers were residing within geographical boundary of Jharkhand State prior to 10.11.1978 and are permanent resident are entitled to get caste certificate of BC and since the father of the petitioner came in Jharkhand after cadre bifurcation and is permanent resident of Bihar; as such, the petitioner is not entitled to get caste certificate from this State.

It has been further submitted that since explanation submitted by the petitioner was not found satisfactory by the competent authority, therefore, the petitioner was dismissed from service under Rule 668(a) of the Police Manual by passing a reasoned order as such, no interference is required.

5. Having heard learned counsel for the parties and after going through the respective affidavits it appears that the main grievance of the petitioner is that

he has been dismissed from the service on the ground that the caste and residence certificate submitted by him are not valid.

6. It further appears that the petitioner belongs to the Momin Muslim Community which is recognized as backward class under Jharkhand Reservation of Vacancies and Posts (for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 2001.

7. The respondent-authorities in rejecting the claim of the petitioner held that as per departmental instruction contained in letter no. 6763 dated 05.08.2016, those persons whose forefathers were residing within geographical boundary of Jharkhand State prior to 10.11.1978 and are permanent resident are entitled to get caste certificate of BC and since the father of the petitioner came in Jharkhand after cadre bifurcation and is permanent resident of Bihar; as such, the petitioner is not entitled to get caste certificate from this State.

This argument is not acceptable to this Court since in holding such; the respondent-authorities did not take into account Section 73 of the Bihar Reorganization Act, 2000 which provides that service condition applicable immediately before the appointed day in the case of any person deemed to have been allotted to the State of Bihar or to the State of Jharkhand under Section 72 shall not be varied to his disadvantage except with the previous approval of the government. For better appreciation Section 73 of the Bihar Reorganization Act, 2000 is quoted herein below:

"73. Other provisions relating to services.-

(1) Nothing in section 72 shall be deemed to affect on or after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any State:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person deemed to have been allocated to the State of Bihar or to the State of Jharkhand under section 72 shall not be varied to his disadvantage except with the previous approval of the Central Government.

All services prior to the appointed day rendered by a person-

(a) if he is deemed to have been allocated to any State under section 72, shall be deemed to have been rendered in connection with the affairs of that State;

(b) if he is deemed to have been allocated to the Union in connection with the administration of the Jharkhand shall be deemed to have been rendered in connection with the affairs of the Union, for the purposes of the rules regulating his conditions of service.

(3) The provisions of section 72, shall not apply in relation to members of any All-India Service."

8. In this regard the Hon'ble Apex Court in the case of Pankaj Kumar v. State of Jharkhand (2021) 20 SCC 545 has categorically held that it would be highly unfair and pernicious to interest of employees if the benefits of reservation with privileges and benefits flowing thereof are not being protected in the State of Jharkhand after he is absorbed by virtue to Section 73 of the 2000 Act. Further the employees who are members of SC/ST/OBC whose caste/tribe has been notified by an amendment to the Constitution or by separate notification for members of other backward class category, the benefit of reservation shall remain protected by virtue of Section 73 of the Act of 2000 for all practical purposes which can be claimed including by their wards for participation in public employment.

9. The relevant paragraph of the judgment in "Pankaj Kumar" (supra) is quoted herein below:

"53. It will be highly unfair and pernicious to their interest if the benefits of reservation with privileges and benefits flowing thereof are not being protected in the State of Jharkhand after he is absorbed by virtue to Section 73 of the 2000 Act that clearly postulates not only to protect the existing service conditions but the benefit of reservation and privileges which he was enjoying on or before the appointed day i.e. 15-11-2000 in the State of Bihar not to be varied to his disadvantage after he became a member of service in the State of Jharkhand.

55. In our considered view, such of the employees who are members of the SC/ST/OBC whose caste/tribe has been notified by an amendment to the Constitution (Scheduled Castes)/(Scheduled Tribes) Order, 1950 under Vth and VIth Schedule to Sections 23 and 24 of the 2000 Act or by the separate notification for members of other backward class category, benefit of reservation including privileges and benefits flowing thereof, shall remain protected by virtue of Section 73 of the 2000 Act for all practical purposes which can be claimed (including by their wards) for participation in public employment."

10. Further Hon'ble Apex Court in Akhilesh Prasad v. Jharkhand Public Service Commission and Others 2022 SCC OnLine SC 510 has held as follows:

"25. In the instant case and in the case of Pankaj Kumar, the appellants belonged to a particular community or tribe which was specified in the erstwhile State of Bihar as Scheduled Castes/Scheduled Tribes when they entered public service in the erstwhile State of Bihar. The appellants in both the cases were allocated to the service under State of Jharkhand though they belonged to the areas which after re-organization are now part of the successor State of Bihar. By virtue of Sections 73 and 74 of the Act, they could certainly claim benefit in the service under the newly carved State of Jharkhand. On the strength of the view taken in Pankaj Kumar, the entitlement in a fresh service in State of Jharkhand as well as in accordance with the view taken by us in the instant case, the entitlement in the limited departmental examination in State of Jharkhand is definitely made out. The basis for their entitlement is primarily because of Sections 73 and 74 of

the Act. It is quite possible that the progeny of such persons may have stayed back or may later decide to go back to their roots, that is to say, to the area which now falls in the newly carved State of Bihar; and since their lineage is from that area and the State, they may contend that they are entitled to benefits of reservation in the newly carved State of Bihar in relation to which State, the community that they belong, is a Scheduled Caste/Scheduled Tribe. Paragraph 55 of the decision in Pankaj Kumar is capable of being read as conferring entitlement on the wards or the progeny of the appellants in State of Jharkhand alone where in contradistinction to their lineage, they can claim to have connection only through their parent(s) and the effect of the provisions of the Act.”

11. After going through the above discussion, it becomes clear that the respondent-authorities erred in holding that since the father of the petitioner came in Jharkhand after cadre bifurcation and is permanent resident of Bihar, as such the petitioner is not entitled to get caste certificate from this State. Consequently, the impugned order dismissing the petitioner from the service deserves to be quashed and set aside.

12. Even otherwise, as per paragraph-2 of Resolution No. 3198 dated 18.04.2016 issued by the Department of Personnel, Administrative Reforms and Rajbhasa, Government of Jharkhand; provides for conditions when an Indian Citizen will be considered as resident of Jharkhand and the condition in paragraph-2(iii) is that if an officer/employee appointed and working in the Jharkhand State Government/State Government run/recognized institutions, corporations etc. or his/her wife/husband/children and commits to reside in the State of Jharkhand. For better appreciation paragraph-2 of the Resolution is quoted herein below:

13. Since the father of the petitioner is an employee of Jharkhand State Government and affirms to reside in this State; as per the above condition, the petitioner automatically becomes resident of State of Jharkhand and on this count alone the writ application deserves to be allowed.

14. Accordingly, the impugned orders contained in Memo No. 752 dated 12.05.2020 (Annexure-10 to the writ application) and Memo No. 1325 dated 24.08.2020 (Annexure-12 to the writ application), are hereby, quashed and set aside and the concerned respondent is directed to reinstate the petitioner within a period of 6 weeks from the date of receipt/production of copy of this order.

15. As a result, this writ application stands allowed.

16. Pending I.A., if any, is also disposed of.