

(2002) 08 PAT CK 0004
In the Patna High Court
Case No : C.W.J.C. No. 3995 of 2001

Mohamed Sahabuddin

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 20-08-2002

Acts Referred:

Citation : (2003) 1 PLJR 105

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Jitendra Kumar Roy, for the Appellant; Amita, for the Respondent

Final Decision : Allowed

Judgement

Chandramauli Kr. Prasad, J.—In this writ application prayer made by the Petitioner who was a Dalpati is to send him for training so that he may be considered for appointment to the post of Panchayat Sewak.

2. Shorn of unnecessary details, facts giving rise to the present application are that the Petitioner is working as Dalpati and the Respondents decided to send ten Dalpatis for training strictly in accordance with their seniority. Accordingly, persons at serial numbers 13, 15, 72, 73, 75, 76, 77, 78, 79 and 80 were selected for training. It is the grievance of the Petitioner that although his name is at serial number 81 of the seniority list and the name of Respondent No. 6 figures at serial number 84 of the seniority list, latter has been selected for training, but the Petitioner has been left out.

3. Counter affidavit has been filed on behalf of Respondents 1 to 5 in which their stand is that on seniority basis Dalpatis at serial numbers 13, 15, 72, 73, 75, 76, 77, 78, 79 and 80 were selected for training and as the name of the Petitioner is at serial number 81 of the seniority list, he was not sent for training. As regards the allegation of the Petitioner that Respondent No. 6 who is at serial number 84 has been selected for training, Respondent in paragraph No. 6 of the counter affidavit has stated as follows:

Out of ten untrained Dalpaties Shri Dharamdeo Rai serial No. 13 of seniority list did not join the training camp on the ground of ill health and Sri Chandradeip Rai serial No. 79 also did not join. At that time Harihar Sahni, serial No. 84 of the seniority list suo motu appeared on 27.3.2001 before District Panchayat Officer, Vaishali and expressed his desire to join training camp. As two persons absented within the scheduled time and desired number was not fulfilled, hence the request of Harihar Sahni was allowed and he was sent for training.

4. From the statement made in the aforesaid paragraph of the counter-affidavit, it is evident that Harihar Sahni, who is at serial number 84 has been sent for training but the Petitioner whose name is at serial number 81 of the seniority list has not been sent. The explanation put forth by the Respondents that the said Harihar Sahni suo motu appeared is fortuitous. In case two persons did not join training camp, Respondents ought to have sent the two persons next below in the seniority list for training. They have not chosen to do the same and in fact favoured Respondent No. 6 by sending him for training. In that view of the matter, I am of the opinion that the action of the Respondents is discriminatory.

5. Let the Respondents send the Petitioner for training in the next batch of Dalpati.

Application stands allowed in the aforesaid terms.