

(2010) 03 PAT CK 0147
In the Patna High Court

Nabo Kumar Bose and Others

APPELLANT

Vs

The Rajendra Agricultural University and Others

RESPONDENT

Date of Decision : 18-03-2010

Acts Referred:

Citation : (2010) 03 PAT CK 0147

Hon'ble Judges : J.N. Singh, J

Bench : Single Bench

Judgement

J.N. Singh, J.—By an order dated 18.2.1998 passed in S.L.P.(C) No. 18594 of 1994 and other analogous Special Leave Petitions, the Hon"ble Supreme Court formulated a scheme for the Rajendra Agricultural University for filling up the available vacancies of Class-III and Class-IV by giving opportunities to casual employees working in the University for more than a decade to get into regular service. As per the scheme, 35% vacancies had to be filled up from amongst the casual employees who had completed more than 15 years of service. The rest of the 65% of vacancies had to be filled up in usual manner for appointment of regular employees. The left over casual employees, who may not be absorbed against 35% quota, were also given liberty to apply against the 65% quota for regular appointment. If they applied they were to be given 2% marks for their each year of service in the University to a maximum of 30%. 50% marks was fixed for educational and other qualifications and 20% marks was fixed for interview. The Hon"ble Supreme Court laid down that year of completed service will mean 240 days of service in a year ignoring artificial breaks. It further directed that the casual employees who apply against 65% quota shall be given age relaxation upto 50 years subject to their physical fitness. The left out casual employees were to be disengaged. The Apex Court directed this process to be completed within six months.

2. It is not disputed that, pursuant to this direction of the Apex Court, the University came up with its first advertisement in 1998 itself. But it appears that the entire vacancies were not filled up on the basis of said advertisement.

3. Case of the petitioners, who are also casual employees of the University, is that they had also applied against 1998 advertisement. But, as the University filled up only certain number of posts from the panel prepared on the basis of the said 1998 advertisement, they could not be appointed. The University thereafter published another advertisement in 1999, a copy whereof is annexed as Annexure-2 against which also petitioners applied. Apparently, this advertisement was also published in the process of compliance of the orders of the Apex Court. It is not disputed that the University came up with another advertisement in 2000 also. These two advertisements came under challenge before this Court in CWJC No. 8636 of 2000 by a candidate who had applied against 1998 advertisement. There was some interim order in the case and ultimately, in the light of the counter affidavit of the University that the 2000 advertisement was in respect of a particular scheme of Central Government and that they were not going to act of 1999 advertisement, the writ application was disposed of. The University did not act of 1999 advertisement. Therefore petitioners who were applicant for their appointment against 65% quota in terms of the Apex Court order remained in lurch. This Court is informed that the University thereafter issued further advertisements in 2004 and 2005. What happened pursuant to those advertisements is not available on record. However, another advertisement issued by the University as advertisement No. 4 dated 21.4.2008 has been produced on record by the petitioners through I.A. No. 3261 of 2008. This advertisement shows that several posts have been advertised by the University. It also shows that casual employees who had completed 15 years of service on 18.2.1998 were also been given liberty to apply against this advertisement and they were exempted from paying the application fee. However, in this advertisement it is mentioned that maximum age of causal employees should not be more than 50 years as on 21.5.2008. These stipulations in this advertisement show that the University was going to consider cases of those causal employees who were covered under the said scheme formulated by the Apex Court.

4. Learned Counsel for the petitioner submits that the Apex Court had fixed up six months time for the University to complete the process of appointment against all vacancies considering the cases of casual employees in the manner laid down in the scheme. Still University has linger the matter has come up with successive advertisements and even after passage of 10 years the process is not complete. He submits that had the 1999 advertisement been acted upon, the petitioners would have very well been considered for empanelment and appointment against the 65% quota as they were definitely less than 50 years of age at that very time. He submits that the petitioners have continued in the University since then and many of them have completed much more than 15 years of service. Therefore, he submits that the University should be directed to act upon 1999 advertisement as the same was also issued in the process of compliance of orders of the Apex Court.

5. Learned Counsel for the University submits that since fresh advertisement has

been issued on 21.4.2008, the petitioners' cases can now be considered pursuant to this advertisement if they have applied.

6. Normally, the process of appointment in accordance with the scheme formulated by the Apex Court should have been completed within six months and on the basis of one consolidated advertisement. However, it is clear that University did not do it and took up the exercise in piecemeal which necessitated issue of successive advertisements. Since all the advertisements were issued in terms of orders of the Apex Court, the University was required to act upon all of them. Therefore, the University was not justified in abandoning the 1999 advertisement and leaving the applications of the candidates submitted against the said advertisement in lurch and issue fresh advertisement ignoring the claim of those applicants. However, at this stage, the direction to the University to act upon 1999 advertisement may create complications as many of the posts may have been filled up later on or in case appointments are made on the basis of 1999 advertisement posts may not be available for subsequent advertisements and applicants of subsequent advertisements may have a grievance. Therefore, this Court enquired from learned Counsel for the petitioners as to whether the petitioners have applied against advertisement dated 21.4.2008 or not. He informs that, except petitioner No. 6, all the petitioners have applied against this advertisement also. As the petitioner No. 6 had crossed 50 years of age, he felt himself debarred from applying against this advertisement. Learned Counsel for the petitioner and learned Counsel for the respondent University also inform this Court that process of selection on the basis of this advertisement has not yet been completed and the interviews have not been held so far.

7. In the advertisement the University has fixed cut-off date for counting of 15 years service as on 18.2.1998, the date on which the Apex Court had passed the order. But it fixed 50 years of age limit for casual employees as on 21.5.2008 i.e. till one month after the issue of the advertisement. This Court is of the view that as these stipulations in the advertisement were in terms of the orders of the Apex Court, the University should have fixed up cut-off date for both 15 years of completed service and 50 years of age as one. Since the order of the Apex Court was passed on 18.2.1998, it is quite reasonable to fix up the same as cut-off date for counting the 15 years of service and also for 50 years of age.

8. In the circumstances, this Court holds that the 50 years of age fixed by the advertisement dated 21.4.2008 for the casual employees of the University should be reckoned till 18.2.1998 only. In that situation, petitioner No. 6 also becomes eligible to apply against the said advertisement. Since the process is not complete and interviews are yet to be held, the University is directed to accept the application of petitioner No. 6, if the same is filed within two weeks and take it into consideration on merits giving him all due weightage etc. as laid down in the scheme formulated by the Apex Court. Since all other petitioners have applied against this advertisement, this Court directs the University to consider their cases on merits and as per the scheme formulated by the Apex Court,

giving them due weightage etc. as laid down therein and empanel them on that basis for consideration of their cases for appointment in the respective grades.

9. Since the implementation of the scheme formulated by the Apex Court by its order dated 18.02.1998 is also involved through the advertisement dated 21.4.2008, the University is directed to complete the process of selection/ appointment pursuant to this advertisement preferably within a period of four months from today.

10. The writ application is disposed of with the aforesaid observations and directions.