
(2010) 09 PAT CK 0004
In the Patna High Court
Case No : CWJC No. 13571 of 2010

Pankaj Kumar and Others

APPELLANT

Vs

The Bihar State Electricity Respondents Board and Others

RESPONDENT

Date of Decision : 01-09-2010

Acts Referred:

Electricity (Supply) Act, 1948 — Section 79C

Citation : (2011) 1 PLJR 941

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

Bench : Single Bench

Judgement

V.N. Sinha, J.—Heard learned Counsel for the Petitioners and the counsel for the Bihar State Electricity Board (hereinafter referred to as the "Board") who has also filed counter affidavit refuting the prayer made in the writ petition.

2. Petitioners who were appointed as Assistant Executive Engineer (G.T.O. Cadre) pursuant to Employment Notice No. 3/99 published in Employment News dated 22-28.5.1999, Annexure-1, challenge the order passed by the Joint Secretary of the Board dated 15.4.2008, Annexure-11, whereunder their request for grant of two additional increments in the light of the resolution of the Board dated 29.1.2000, Annexure-4 has been rejected. The result of the selection process pursuant to advertisement, Annexure-1 was published on 23.12.1999 which is contained in Annexure-2 to this application. In the light of the result, Annexure-2 appointment letter dated 24.12.1999 was issued to Petitioner Nos. 1 to 8 directing them to join the service of the Board on or before 12.1.2000. Petitioner No. 9 was issued appointment letter dated 30.12.1999, 18.1.2000 directing him to join the service of the Board on or before 20.1.2000. After the appointment of the Petitioners Board issued notification dated 29.1.2000, Annexure-4 providing for the existing officers and Class-III workmen who are below 50 years of age as on 1.4.2000 to clear the Computer Literacy Test before 31.3.2000 but in case they fail to clear the Computer Literacy Test annual increment due to them shall not be sanctioned. It also provided that on clearing the Computer Literacy Test

the officers and the workmen shall also be paid one time incentive of Rs. 2,000/-. After issue of the notification dated 29.1.2000 Computer Proficiency Test was not organized by the Board and in appreciation of such fact Board modified its earlier notification dated 29.1.2000 by publishing notification dated 16.8.2002, Annexure-5 in which it provided that officers and workmen appointed in the year 1999 and earlier who pass Computer Literacy Test be awarded two additional increments as incentive provided at least five years service is left for their superannuation. The other condition(s) of the earlier notification dated 29.1.2000 was directed to be continued. Even after issue of the subsequent notification dated 16.8.2002 officers and workmen could not pass the computer proficiency test and their increment was withheld. To mitigate the grievance of its officers and workmen who could not pass the Computer Proficiency Test and earn increment, the Board issued notification dated 28.1.2004, Annexure-6 and granted a further period of two years from 28.1.2004 to the officers and the workmen to acquire computer proficiency and to earn their increment.

3. Petitioners having been appointed pursuant to selection process which began in May, 1999 and submitted their joining on 12-18.1.2000 having passed the computer proficiency test requested the authorities of the Board to grant two additional increments in the light of Clause (2) of the notification dated 16.8.2002, Annexure-5 with effect from the date of acquiring computer proficiency but such request has been rejected by the Joint Secretary of the Board under instruction dated 15.4.2008, Annexure-11 which is impugned in the present writ case.

4. Counsel for the Petitioners appearing in support of this application submitted that the advertisement pursuant to which Petitioners participated in the selection process and were appointed did not provide for the Applicants to be computer proficient and Petitioners having acquired computer proficiency after entering the service of the Board are entitled for grant of two additional increments in the light of paragraph-2 of the notification dated 16.8.2002, Annexure-5 as also the subsequent notification dated 28.1.2004, Annexure-6 with effect from the date they acquired computer proficiency and the Joint Secretary while passing the impugned order has failed to appreciate the import of the two notifications dated 16.8.2002 and 28.1.2004 in right perspective.

5. Counsel for the Board has opposed the prayer with reference to the averments made in the counter affidavit. He states that Petitioners were appointed in the year 2000 as they have themselves stated in paragraph-4 of their representation, Annexure-10 and according to the learned Counsel two additional increments are to be given to those who have been appointed in 1999 or earlier provided they acquire computer proficiency and have at least five years' service left with the Board and such stipulation has been made by the Board in the notification dated 16.8.2002 in exercise of powers contained in Section 79(C) of the Electricity Supply Act, 1948 which inter alia empower the Board to regulate the service condition of its employees.

6. Having heard counsel for the Petitioners and the Board and having perused the three notifications dated 29.1.2000, 16.8.2002 and 28.1.2004, Annexures-4, 5 and 6 as also the order of the Joint Secretary dated 15.4.2008, Annexure-11, I am of the opinion that the Petitioners who have been appointed pursuant to the selection process conducted in the year 1999 and joined the service of the Board on 12-18.1.2000 pursuant to appointment letter dated 24.12.1999, 30.12.1999 and 18.1.2000 should invite the attention of the Board to the fact that they have acquired computer proficiency in the light of the notification of the Board dated 29.1.2000 which has been modified by notification dated 16.8.2002 providing for grant of two additional increments for those who acquire computer proficiency while serving the Board. The Board should consider their request in the light of the contents of the three notifications dated 29.1.2000, 16.8.2002 and 28.1.2004 as from the joint reading of the three notification it is very much evident that the notification dated 29.1.2000 has been modified by the Board by issue of the two subsequent notifications and Petitioners have acquired computer proficiency while serving the Board. The Board should consider (sic) of the Petitioners for grant of two additional increments in the light of the contents of the three notifications as early as possible, in any case within a reasonable time not exceeding three months from the date of receipt of the-request.

7. The writ application is, accordingly, disposed of.