

(2013) 06 JH CK 0031

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2506 of 2005

Paras Nath Oraon

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 17-06-2013

Acts Referred:

Citation : (2013) 3 AJR 481

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Rajendra Krishna and Amit Singh, for the Appellant;

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. The petitioner, being an incumbent of Bihar Agriculture Service, Class-II, Category-1 (Agronomy) and posted as Senior Agriculture Extension Officer with effect from February, 1988 and also being a candidate of the scheduled tribe category, sought for consideration of his case for promotion in Junior Selection Grade with effect from 5.2.1993 after completion of 5 (five) years of service. However, the petitioner could not be granted the said promotion in Junior Selection Grade in the year 1993 and later on in the year 2001 for want of vigilance clearance.

2. This writ petition was preferred in the year 2005 seeking direction upon the respondents-authorities to promote him in Junior Selection Grade with effect from February, 1993. It is the case of the petitioner that he had already passed the Hindi as well as Accounts departmental examination in the year 1990 and was also eligible for such consideration and promotion in Junior Selection Grade. In that regard, representations have also been made on his behalf but of no avail. Accordingly, with the aforesaid grievances, he had approached this Court.

3. Counsel for the petitioner submits that respondent no. 1, State of Jharkhand in their counter affidavit, filed in 2005, shifted the responsibility upon the State of Bihar as the cadre of the petitioner was not bifurcated by then and the cadre controlling authority, as per them was Department of Agriculture, Government of

Bihar, Patna. The respondent-State of Jharkhand had also requested the Agriculture Produce Commissioner, Government of Bihar, Patna through letter dated 28.5.2005, Annexure-A to the said counter affidavit, to take a final decision in regard to the promotion of the petitioner. The respondent no. 3-State of Bihar, in their affidavit, filed in February 2006, has taken a stand that such promotion in Junior Selection Grade is to be granted on the basis of consideration of several factors like minimum "Kalawadhi", roster clearance, integrity certificate as well as availability of the post in the scheduled tribes category, from which the petitioner belongs. His name was placed at Gradation list at serial no. 1006. Officials up to Gradation serial no. 917 of the said category were granted Junior Selection Grade as per availability of post vide notification dated 29.5.2002. His comparison with the case of another Sri Singheshwar Paswan was denied as the other similarly placed persons belong to scheduled caste category. Therefore, as per the stand of the State of Bihar in the said promotional exercise, promotion to the post of Junior Selection Grade could not be granted to the petitioner.

4. The petitioner by way of his supplementary affidavit has stated that the cadre division of his service had taken place vide order no. 53(B)/2006 dated 17.3.2006 issued by Ministry of Personnel, Public Grievances and pension, Department of Personnel and Training, Government of India, Annexure-14.

5. In such situation, counsel for the petitioner further submits that for such non-bifurcation of cadre and non availability of vigilance clearance earlier the petitioner's case of promotion in the Junior Selection Grade has not been undertaken by the respondents and the petitioner has suffered on account of that till date. It is, however, submits that the petitioner has been allocated to the State of Jharkhand and now the respondent-State of Jharkhand be directed to take appropriate decision in his matter in accordance with law.

6. Counsel for the respondent-State of Jharkhand submits that the matter has remain pending on account of the absence of final allocation of the cadre of the petitioner till 2006. However, once the petitioner's cadre has been finally allocated to the State of Jharkhand, the State of Jharkhand, the controlling authority/competent authority shall consider the case of the petitioner in accordance with law for promotion to the Junior Selection Grade if, the petitioner is directed to approach the concerned authority.

7. Having heard learned counsel for the parties and have gone through the relevant material on record, the case of the petitioner is non-consideration for promotion to the Junior Selection Grade with effect from February, 1993 and subsequently 2001 despite having completed five years of service since his appointment was made in the year 1988 and other similarly placed candidates of the scheduled tribe category have also been granted promotion to the post of Junior Selection Grade. It appears that the petitioner's case is remain hanging on account of the lack of vigilance clearance from the concerned department. Further the issue of bifurcation of the cadre had also remained pending till it was

finally decided by Ministry of Personnel, Public Grievances and pension, Department of Personnel and Training, Government of India, Annexure-14, on 17.3.2006.

8. In these circumstances, once the petitioner has been finally allocated to the State of Jharkhand, the competent authority of the State of Jharkhand is directed to take an appropriate decision in that regard keeping the relevant rules, the eligibility criteria, the availability of the post and the seniority of the petitioner in his cadre. Accordingly, the writ petition is being disposed of with liberty to the petitioner to approach respondent no. 2, Secretary, Department of Agriculture, Government of Jharkhand, Ranchi with a representation for consideration of his case for grant of promotion to the post of Junior Selection Grade with effect from due date, for which he is legally eligible, with necessary facts and documents within a period of three weeks. On receipt of such representation, respondent no. 2, Secretary, Department of Agriculture, Government of Jharkhand, Ranchi, shall consider the same in accordance with law and taking into account the service records of the petitioner, the relevant rules and guidelines in that regard as well as all such eligibility criteria by taking an informed decision within a period of twelve weeks. If necessary, a Departmental Promotion Committee may be convened for such purpose where the case of the petitioner along with other eligible candidates shall be considered. In case, the petitioner is found eligible for such promotion to the post of Junior Selection Grade from the date to which he is entitled, the same should also be conferred upon him within a period of four weeks thereafter with all consequential benefits. The present writ petition stands disposed of in the aforesaid terms.