
(2012) 09 JH CK 0013
In the Jharkhand High Court
Case No : Writ Petition (S) No. 2211 of 2009

Ram Lal Jha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 12-09-2012

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2013) 1 JLJR 31

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : S.N. Pathak, Rakesh Kr. Roy, Fayyaz Ahmad and Rishikesh Giri, for the Appellant; A.K. Sinha for the State, for the Respondent

Judgement

Alok Singh, J.—This Court, on 30th August, 2012, has passed the following order:--

Learned Advocate General while referring to paragraph nos. 8 and 9 of the counter affidavit filed by Mr. Naushad Alam, Dy. Superintendent of Police, Hazaribagh (Headquarter-1), has submitted that initially height of the petitioner was measured and recorded as 179.5 CM. However, during verification, re-measurement and scrutiny of documents, height of the petitioner was found to be 177 CM. He further contends that although minimum requisite height was 160 CM and the petitioner was well within zone of consideration, however, it seems that he was not offered appointment because all other appointed constables under general category or Home-guard category were above 177 CM. Learned Advocate General, for his all fairness, has submitted that he will inspect the record of the selection process in question and after obtaining necessary information from the concerns shall make statement on 12th September, 2012 as to whether all candidates selected as constables in general category or in Home-guard category were above 177 CM. He shall also make statement as to why petitioner was not found suitable for the appointment. Learned Advocate General has further assured this Court that on 12.9.2012 responsible police officer shall

produce the record of selection process before this Court on 12.9.2012.

List on 12th September, 2012.

Learned Advocate General is present in the Court alongwith the record handed over to him by Mr. Arun Kumar, Police Inspector, Koderma, who is also personally present in the Court.

2. The only dispute in the present case is that initially, the height of the petitioner was measured and recorded as 179.5 cm. However, during the verification of the documents, his height was re-measured and was found to be 177 cm and thus, he was denied appointment. Minimum requisite height for the post of Constable was 160 cm. Therefore, refusal to give joining to the petitioner, on the ground, that in the re-measurement, his height was found to be 177 cm on the face of it, is totally unjustified, arbitrary and in violation of Article 14 of the Constitution of India.

3. Learned Advocate General has fairly stated that minimum height required, for the post of Constable, was 160 cm, therefore, refusal to give joining to the petitioner, on the ground, that on the re-measurement, his height was found to be 177 cm, instead of 179.5 cm, seems to be unjustified. However, he has submitted that since the appointment, in question, is of the year 2009 and all other incumbents have already been appointed, therefore, it is difficult for the State Government to give appointment to the petitioner now, in the year 2012, however, his case can be considered for future appointment.

4. Mr. Pathak, learned Senior Advocate, on the other hand, has argued that if the petitioner was wrongly denied joining, for no fault of him, he should not be denied appointment. He further contends that if the petitioner is allowed to join in the subsequent Batch, his seniority would be adversely affected.

5. There is no denial to the fact that there are still some sanctioned posts, falling vacant. Since, the petitioner was denied joining, despite his selection, in totally unjustified and arbitrary manner, therefore, interest of justice would be served, if I direct that the petitioner be given joining. However, he shall be allowed to undergo training alongwith the ongoing or Fresh Batch, as the case may be, but, his seniority shall be counted from the date, he was declared successful and was appointed, however, denied joining. However, the petitioner shall be paid salary from the date, he is allowed to join the training. Present writ petition stands disposed of accordingly.