
(2014) 03 PAT CK 0044

In the Patna High Court

Case No : Letters Patent Appeal No. 347 of 1998 in Civil Writ Jurisdiction Case No. 4211 of 1997

Ram Pratap Paswan and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 10-03-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2014 Patna 99 : (2015) 3 PLJR 575

Hon'ble Judges : Rekha M. Doshit, C.J.; Mihir Kumar Jha, J; Ashwani Kumar Singh, J

Bench : Full Bench

Advocate : S.K. Griyaghey, Ranjeet Tiwari and Manish Kumar, Advocate for the Appellant; Ashok Kumar Choudhary, Anil Kumar Tiwary and S.H.H. Quadri, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Rekha Manharlal Doshit, C.J.—Feeling aggrieved by judgment and order dated 20 February, 1998 made by the learned single Judge in CWJC No. 4211 of 1997 the petitioners have preferred this Appeal under Clause 10 of the Letters Patent. The matter at issue is that of 1987 recruitment process. Pursuant to 1987 recruitment process conducted by the Bihar State Subordinate Services Selection Board (hereinafter referred to as "the Selection Board) the appellants came to be appointed as Routine Clerk under the District Collectrates of Nawada, Samastipur and Aurangabad. Since their appointment the Selection Board came to be dissolved and the Bihar Public Service Commission (hereinafter referred to as "the Commission") took over as its successor examining body.

2. Feeling aggrieved by his non-selection, one Ashok Kumar Choudhary had approached this Court under Article 226 of the Constitution in CWJC No. 5170 of 1993. It was brought on record that in violation of the specific instruction "not to disclose, one's identity anywhere in the answer sheet", the said Ashok

Choudhary had disclosed his identity in the form of letter writing in answer to question No. 2. The Board had, therefore, withheld his result. It was the grievance of the said Ashok Choudhary that he was discriminated. A similar defect in respect of other examinees was condoned. While dismissing the Writ Petition the Bench of this Court directed the Commission to examine the answer papers of other candidates and to take appropriate steps. Pursuant to the said direction, on scrutiny, the appellants were found to have disclosed their identity in the answer sheets. The appellants were called upon to show cause and after hearing them their services came to be terminated in 1997. Feeling aggrieved the appellants filed the above CWJC No. 4211 of 1997. The learned single Judge has dismissed the Writ Petition. Therefore, the present Appeal.

3. Under order dated 23rd July, 2007 passed by a Division Bench of this Court this Appeal has been referred to the Full Bench. The Bench was of the opinion that, ".....we are not in a position to accept the contention of the Commission as was accepted by the Division Bench in the judgment referred to above that disclosing names in such fashion is a violation of the mandate contained in the answer script to the effect that the candidates will not write their names in the left portion of the first page of the answer script."

4. It is apparent that the Bench has made the aforesaid observation on the premise that the instruction was not to disclose the identity on the first page of the answer sheet. However, under the relevant instructions the candidates were specifically instructed not to disclose their identity "on the left portion of the first page of the answer sheet or anywhere in the answer sheet." In our opinion, the disclosure of one's name or identity on the first page of the answer script or anywhere else in the answer script was in violation of the aforesaid specific instruction. We are, therefore, of the opinion that the result of the appellants could not have been declared, nor could they have been appointed as Routine Clerks. They were rightly disqualified to hold the post of Routine Clerk.

5. In any view of the matter, with the passage of time the appellants are nearing the age of superannuation, the question of their reinstatement in service at this advanced age does not arise. Appeal is dismissed.