
(2019) 12 JH CK 0169
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5704 Of 2017

Ram Ratan Pandey

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 11-12-2019

Acts Referred:

Citation : (2019) 12 JH CK 0169

Hon'ble Judges : Dr. S.N. Pathak, J

Bench : Single Bench

Advocate : A.K. Shahani, Sunil Kumar

Final Decision : Allowed

Judgement

The petitioner has approached this Court with multiple prayers but now confines his prayer for consideration of his case for promotional benefits in

accordance with law.

The case of the petitioner lies in a narrow compass. The petitioner initially joined the services to the post of Halka Karamchari on 14.05.1993 and is

presently posted in Circle Office Mandu, Ramgarh. The petitioner is claiming promotion to the post of Circle Inspector-cum-Kanoongo from the post

of Halka Karamchari. It is specific case of the petitioner that the post of Circle Inspector-cum-Kanoongo was to be considered by the respondents

and 50% of the seats were to be filled by direct appointment and 25 % of the seats to be filled by promotion, on the basis of seniority-cum-merit and

rest 25 % of the seats to be filled by limited competitive examination and the case of the petitioner falls within the 2nd category wherein 25 % of the

seats seniority cum merit, Clause 7.5 (kha) of the Regulation, 2011 issued by the State of Jharkhand, but the respondents have filed counter-affidavit

and have made out a case that petitioner's case did not fall within category of 25 % of the seats as he does not fulfill the requisite qualification as

he is not graduate rather petitioner is only matriculate. As the case of the petitioner has not been considered by the respondents, he has been

constrained to knock the door of this Court for redressal of his grievances.

Mr. A.K. Shahani, learned counsel for the petitioner submits that the respondents-authorities have disregarded the promotional avenue of the

employees under them as the case of the petitioner falls within the category of 25 % seats to be filled by seniority-cum-merit/on the basis of

promotion, the petitioner is admittedly matriculate, he is entitled for promotion to the post of Circle Inspector-cum-Kanoongo. The issue fell for

consideration before this Court in W.P.(S) No. 2410 of 2013 and vide order dated 21.11.2013, a Co-ordinate Bench of this Court was of the view that

Clause 7.7 (kha) of the Regulation of 2011 is applicable in the case of the petitioner and not Clause 7.5 of the Regulation of 2011 of the State of

Jharkhand. Further, the Court was of the view that several clauses are there in the Regulation of 2011 for appointment and promotion and Clause 7.5

of the said Regulation is meant for direct recruitment and Clause 7.7 (kha) of the said Regulation is meant for promotion from the post of Halka

Karamchari and Clause 7.7 (k) is meant for Limited Competitive Examination. Learned counsel further submits that in view of the above, the

petitioner is also entitled for the same relief.

Per contra, counter-affidavit has been filed. Learned counsel for the respondents vehemently opposes the contention of the learned counsel for the

petitioner and submits that in the terms of the Regulation, the petitioner does not possess the qualification of Graduation, which is essential qualification

for appointment to the post of Circle Inspector-cum-Kanoongo and as such, the case of the petitioner was not considered.

Be that as it may, having gone through the rival submissions of the parties, this Court is of the considered view that the case of the petitioner needs

consideration. Looking to the provision of Clause 7.7 kha of Regulation of 2011, it appears that post of the Circle Inspector-cum-Kanoongo will be

filled up by 25 %, by giving promotion, who are Revenue Karamchari/Halka Karamchari on the basis of their seniority-cum-merit, nowhere it has been

mentioned that graduation degree will be required in the said promotion. The

contention of the learned counsel for the respondents that minimum qualification is Graduation even for consideration for promotion from Revenue Karamchari/Halka Karamchari to Circle Inspector-cum-Kanoongo, is not acceptable to this Court as the same is not reflected in the Regulation of 2011 and Clause 7.7 is very clear on that point. A Co-ordinate Bench of this Court in W.P.(S) No. 2410 of 2013 was of the view that Clause 7.7 (kha) of the Regulation of 2011 is applicable in the case of the petitioner and not Clause 7.5 of the Regulation of 2011 of the State of Jharkhand. Further, the Court was of the view that several clauses are there in the Regulation of 2011 for appointment and promotion and Clause 7.5 of the said Regulation is meant for direct recruitment and Clause 7.7 (kha) of the said Regulation is meant for promotion from the post of Halka Karamchari and Clause 7.7 (k) is meant for Limited Competitive Examination. This view has been affirmed by the Honâ??ble Division Bench of this Court in LPA No.170/2014.

In view of the facts mentioned above and in view of the specific findings of this Court, affirmed upto Division Bench, the case of the petitioner needs consideration. The respondent No.2 is directed to consider the case of the petitioner for promotion to the post of Circle Inspector-cum-Kanoongo, if he fulfills requisite qualification as per 7.7 (kha), in accordance with law, within a period of three months, from the date of receipt of a copy of this order. With the aforesaid observation and direction, writ petition stands allowed.