
(2007) 11 PAT CK 0087
In the Patna High Court

Ram Suresh Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 20-11-2007

Acts Referred:

Citation : (2007) 11 PAT CK 0087

Final Decision : Dismissed

Judgement

Navin Sinha, J.—Heard learned Counsel for the petitioner, learned Counsel for the State of Bihar as also for the State Advisory Committee and the State of Jharkhand.

2. The petitioner is aggrieved by the order dated 16.1.2007 by which he has been finally allocated the Jharkhand cadre. His grievance, inter alia, is non-consideration of the objection filed by him on 15.8.2003.

3. The submission on his behalf is that he belongs to the cadre of Nil Mudrak (Drawing staff). The total strength of the cadre is nine while the actual working strength is six. As per the guidelines framed under the Bihar Re-organisation Act, the posts were divided on a 6:3 basis, vis-avis, Bihar and Jharkhand. This has actually been done on a 5:4 posts by the Advisory Committee. On basis of the working strength of six the cadre allocation has been done on the basis of 4:2. The petitioner belongs to the backward class category. As per the allocation presently done only one backward class category post has gone to the State of Jharkhand, which has already been filled up by one Jagdish Prasad. Thus, there is no occasion for the allocation of the petitioner to the State of Jharkhand also as a backward category candidate when there has been no such allocation. The counter affidavit on behalf of the State Advisory Committee states that initially from the total working strength of six, three posts were allocated to each State. At this stage the apportionment of backward category candidate was on the basis of two to Bihar and one to Jharkhand. During actual allocation the need to make available reservation in the ST & SC category to the State of Bihar led to change into allocation of backward category candidates to the State of Bihar and

Jharkhand, whereafter only one seat was left to backward category for the State of Bihar and the post for backward category in the State of Jharkhand increased to two. The posts in the backward category in the State of Bihar were filled up by person senior to the petitioner, whose name figures at gradation No. 3. The petitioner being at gradation 4 was allocated to Jharkhand on the basis of his domicile.

4. The claim of the petitioner appears to rest on the fact that under allocation of cadres upon re-organisation of the State only one seat was allotted in the backward class category to the State of Jharkhand. From the counter affidavit of the State Advisory Committee, it is apparent that during actual allocation of cadres the need to allot a seat in the reserved category of ST & SC to the State of Bihar led to decline to the number of seats of backward class category to the State of Bihar and increase in the number of seats of backward class category to the State of Jharkhand. The petitioner was at gradation 4 of the list being junior to the persons allocated to the State of Bihar being at gradation 3 of the list, this Court is left satisfied that there has been no violation of the principles on which the State Advisory Committee was to act. In any event, the domicile of the petitioner is Jharkhand. The mammoth exercise that has been carried out cannot be lost sight of. Seven years have passed. For this Court to today start interfering in individual claims unless there be any statutory violation will not be proper. The counter affidavit specifically states in paragraph 15(vi) that the representation of the petitioner has been duly considered.

5. The Supreme Court in *Indradeo Paswan Vs. Union of India (UOI) and Others*, was considering a similar challenge to the allocation of cadre under the Bihar Reorganisation Act. What has been noticed in paragraph 8 of the judgment equally applies presently:

8. We may notice straightaway that no case of mala fides or irrationality has been made out in the matter of allocation of the appellant to the reorganized State of Bihar. The case is pitched only on the ground of non-acceptance of the option of the appellant and an attack on the grounds for its rejection.

6. The apex Court further at paragraph 12 of the judgment on the relevant extract held:

12. We see no reason not to accept the principle adopted in *Prakash Chandra Sinha* by the High Court that the allocation should not be interfered with on individual grievances relating to non-acceptance of options exercised, unless clear illegality or *Wednesbury* unreasonableness is established. The State was reorganized with effect from 20.11.2000. We are in the year 2007. It had taken almost five years for the Union of India to publish the final list of allocation regarding this Department. In the absence of any clear ground for interference found in the case, merely on the ground that the appellant had opted for going to the State of Jharkhand but had been allocated to the State of Bihar, it does not appear to be necessary or proper to interfere with the order of allocation....

7. In the result, this Court finds no merit in the writ application and the same is dismissed.