
(2008) 07 PAT CK 0042
In the Patna High Court
Case No : LPA No. 217 of 2008

Ramashish Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 02-07-2008

Acts Referred:

Citation : (2009) 2 PLJR 825

Hon'ble Judges : R.M. Lodha, C.J;Kishore K. Mandal, J

Bench : Division Bench

Advocate : Rupak Kumar and Nishant Kr, for the Appellant; Roy Shivaji Nath and Dr. Ratan Kumar, for the Respondent

Judgement

1. We heard the counsel for the parties. This is second round of litigation concerning allocation of State of Jharkhand to the present appellant. The earlier writ petition (C.W.J.C. No. 4333 of 2006) was dismissed on 4th April, 2006. However, liberty was granted to the present appellant to make a representation for reconsideration of his allocation consequent upon reorganization of erstwhile State of Bihar. The representation has been rejected. Aggrieved thereby, the present writ petition has been filed.

2. In response to the writ petition the State Advisory Committee filed a counter affidavit. There is also a counter affidavit in appeal. We deem it proper to reproduce the stand of the State Advisory Committee as reflected in the counter affidavit filed in appeal. It reads thus:-

"I. The Administrative Department reported the name of the appellants in list of Constables in the prescribed proforma at serial number 20, showing home district as Champaran, gradation number 20, reservation category as BC and option as Bihar.

II. The total sanctioned strength in the cadre of constable was 52, which was apportioned as 35 and 17 between Bihar and Jharkhand respectively in the ratio of 2:1.

III. The working strength of this cadre was reported as 52 which was apportioned between Bihar and Jharkhand as 35 and 17 respectively. The division of working strength is done in the same ratio as the total sanctioned strength of post was divided between the two States. The total working strength in B.C. category was 16 which was similarly apportioned between Bihar and Jharkhand as 11 and 5 respectively.

IV. The total Bihar quota of 11 in B.C. category was first filled up by one special case covered by foregoing paragraph 7(f) leaving a balance of 10, against this there were 14 personnel were available who had opted for Bihar and whose home State was also Bihar, the senior ten along them were allocated to Bihar and junior 4 were allocated to Jharkhand covered by foregoing paragraphs 7g(i) and 7g(iv). The cut-off point for Bihar allocation was reached at serial number 16. The appellant at serial Number 20 below the cut-off point was allocated to Jharkhand. This was the position at the time of TFAL.

V. It is a fact that a representation has been filed by the appellant against Jharkhand TFAL was forwarded by the Administrative Department alongwith others. The representations of the appellant's cadre were considered by the SAC in its meeting held on 17.3.2005. The original representation alongwith all related papers have already been sent to the Central Government taking final decision and issue of orders. However, brief records maintained here shows that he claimed reservation category one Sri Sudama Pandit in this cadre should be MBC instead of BC as reported by the Administrative Department and the reservation category of Sri Mahipal Singh Yadav should be BC instead of general. The other grounds were his elder brother is dependent upon him after being handicapped due to rail accident, younger brother has been suffering from heart problems and was operated in AIMS, New Delhi and is under medical treatment of specialized doctors in Patna and dependent upon him, parents expired. On these grounds he requested for Bihar allocation.

VI. The claim for change the reservation category of the two stated personnel was referred to the Administrative Department for confirmation. The Administrative Department confirmed the reservation category of Sri Sudama Pandit was MBC while the claim of the appellant of Sri Mahipal Singh Yadav did not confirm.

VII. On the above report in the change of reservation category the working strength in MBC was increased to 2. Out of which one personnel admissible to each successor State. Both were Bihar optees and domicile. Sudama Pandit senior between the two was remained in Bihar and Sri Ganesh Kumar Junior to Sri Sudama Pandit who was tentatively allocated to Bihar and did not represent against this allocation has been tentatively allocated to Jharkhand second time and his representation against TFAL, if aggrieved, has been invited. The representation is yet to come. When the representation of Sri Ganesh Kumar is received through the Administrative Department, this will be placed in the SAC meeting for consideration.

VIII. The working strength of BC reduced to 5, which was apportioned between Bihar and Jharkhand as 10 and 5 respectively. The Bihar quota of 10 was first filled up by one special case leaving a balance of 9. Against this there were 13 personnel domicile of Bihar who have opted for Bihar. The senior 9 among them were allocated to Bihar and balance 4 personnel were allocated to Jharkhand following the foregoing paragraphs 7g(i) and 7g(vi). The cut-off point for Bihar allocation was reached at serial 16 and the appellant Sri Ram Ashish Prasad at serial number 20 below the cut-off point was allocated to Jharkhand i.e. the allocation of Sri Prasad was remained unchanged after the change of reservation category of a personnel as he claimed. There is no error in allocation. The representation of the appellant was considered on one-to-one exchange basis. But in absence of reciprocal representationist seeking change from Bihar to Jharkhand his representation could not be considered in his favour. Thus the Jharkhand tentative allocation of appellant was recommended to the Central Government for (sic)pal allocation, which became final in di(sic) course. There was no irregularity in his allocation."

3. In what has been set out above, we find no justification to interfere with the consideration of the matter concerning allocation of State of Jharkhand to the appellant by the State Advisory Committee. The impugned order thus does not suffer from any legal flaw. L.P.A. is dismissed in limine.