

(2002) 11 PAT CK 0031
In the Patna High Court
Case No : C.W.J.C. No. 9995 of 2002

Ramchandra Chowdhary and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-11-2002

Acts Referred:

Citation : (2003) 51 BLJR 113

Hon'ble Judges : Shashank Kumar Singh, J

Bench : Single Bench

Advocate : Neeraj Nandan, for the Appellant; S.K. Ghose, AAG 2, for the Respondent

Judgement

Shashank Kumar Singh, J.—Heard the learned counsel for the petitioners and the counsel for the respondents,

2. The present writ application has been filed for a direction to the District Magistrate, Nalanda at Biharsharif to consider the case of the petitioner for appointment as Class-IV employees for which applications had been invited vide Advertisement dated 6-12-1995, as contained in Annexure-1.

3. The contention on behalf of the petitioner is that they were duly registered in the Shram and Niyojan Department, District Niyojnalaya, Nalanda since long and their registration was being renewed every year. It has further been contended that no the recommendation of the panel committee made on 11-1-1997 an empanelment was made and as the petitioners name was not in the same they had no option but to move this Court for a direction to the respondent Collector for their empanelment.

4. It would not be out of place to mention here that for empanelment registration was the pre-requisite and only Petitioner No. 1, 2 were registered. Prior to the aforesaid date the Petitioner No. 3, has been registered in the year 2000. As for as consideration of other two candidates i.e. the Petitioner Nos. 1 and 2 is concerned, it has been contended by the learned counsel for the State that as

their names after, consideration place much below the impaneled candidates and as the panel was made only of thrice the number of the vacancies as such their names do not find place in the panel. It has further been contended by the learned counsel for the State that the aforesaid panel was subject matter of consideration before this Court many times earlier also and had been challenged by other similarly situated persons. C.W.J.C. No. 1717 of 1998 which was disposed of on 4-10-1999 was one of such cases in which the writ petitioners though were working on daily wages and as their names found place in the panel of 1990. However, this Court taking into consideration the fact that subsequent thereto as in 1995 a fresh advertisement was made and a fresh panel has been made in the year 1997 direction was given for appointment pursuant to the aforesaid panel only and for filling up only those vacancies which were available prior to the date of aforesaid advertisement. It is contended by the learned counsel for the petitioner that in view of the aforesaid direction of this Court all the vacancies in Class-IV which existed at the time of advertisement of the 1997 panel has already been filled up. He has also drawn my attention towards the order passed in C.W.J.C.No. 222 of 1995 and analogous cases, which were imposed, of on 22-8-1995. A Bench of this Court had given similar directions and further observed that though the panel has not been made strictly in accordance with the requirement of merit, as merit alone ought to have been the criteria for seniority in the panel but as the appointments have already been made and those persons who have been appointed have not been made party respondents, as such their appointment was not to be disturbed. However the said order further went to show that the current panel must be the sole basis for making appointments. Persons who found their places in earlier panel must find their places no the merit list as evaluated by the committee and seniority shall not be automatically conferred on persons whose names may have been included in the earlier panel. It was also directed that a panel has to be made for each subsequent year following the same procedure.

5. In view of the aforesaid directions, this Court though satisfied that the contention of the petitioners that if their cases had been considered they would have been asked to appear for interview and non calling them for interview clearly mean that their names has not been considered is not in position to grant any relief to the petitioners as all the vacancies which were available had already been filled up and those persons who have been appointed have not been made party respondents, as such their appointment cannot be affected at this stage.

6. The only direction which this Court feels is required to be given is to quash the part of Annexure A to the counter affidavit which shows a decision of the committee regarding filling of future vacancies out of empanelment on if there is subsequent vacancies, and a panel is required to be made and the same must be made yearwise strictly following the direction as made by this Court in C, W. J.C. No. 222 of 1995. It is made clear that if the petitioners apply pursuant to further advertisement their cases are to be considered in the light of the direction as made above.

7. With the aforesaid directions/observations this writ application is disposed of.