
(2005) 10 JH CK 0025

In the Jharkhand High Court

Case No : C.W.J.C. No's. 11456 of 1998 (P) , 879 of 1999 (P) and 3639 of 2000 (R)

Ramchandra Ravidas and Others

APPELLANT

Vs

State of Bihar (Now Jharkhand) and Others

RESPONDENT

Date of Decision : 26-10-2005

Acts Referred:

Citation : (2006) 1 BLJR 96 : (2006) 1 JCR 186

Hon'ble Judges : S.J. Mukhopadhaya, Acting C.J.;M.Y. Eqbal, J

Bench : Division Bench

Advocate : Ajay Kumar Singh, Rajiv Ranjan, Abhay Kumar Mishra, Rajiv and Faiz Ur Rahman, in CWJC Nos. 879 and 11456 of 1998 and Delip Jerath and S.N. Prasad, in CWJC No. 3639 of 2000, for the Appellant; A.K. Sinna, General, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, A.C.J.

1. As all these cases relate to appointment of Technical Assistants in the Animal Husbandry and Fishery Department and similar orders of termination are under challenge, they were admitted for hearing, heard together and are being disposed of by this common judgment.

2. Petitioners in all the three writ petitions have challenged the order, contained in Letter No. 5530 dated 23rd October, 1998, whereby and whereunder. the respondent State of Bihar directed the Director, Animal Husbandry, Bihar. Patna to terminate the services of those Technical Assistants who were appointed illegally.

Petitioner Ramesh Kumar Singh of CWJC No. 3639 of 2000 (R) has further challenged the consequential order, contained in Letter No. 4821 dated 16th September, 2000, whereby and whereunder the Director, Animal Husbandry, Bihar, Patna, giving reference to the order contained in Letter No. 5530 dated

23rd October, 1998, directed the Regional Director, Animal Husbandry Ranchi/Dumka, to terminate the services of those Technical Assistants who were appointed illegally.

3. As the issue can be decided on short points, similar cases having already been disposed of by this Court and Supreme Court, it is not necessary to discuss all the facts, except the relevant one, as mentioned, hereinafter:

All the petitioners claim to have been appointed as Technical Assistants after notice, published on the Notice Board, interview and selection through Selection Committee. According to them, they having been appointed after following the procedures by the Regional Joint Directors), who was/were the competent authority, their services can not be terminated on the ground of illegal appointments.

Petitioner Ramchandra Ravidas and others of CWJC No. 11456 of 1998 (P) have enclosed some of the copies of letters of appointment. One of them bears Order No. 290 dated 12th September, 1988, issued by the Regional Director, South Chhotanagpur Range, Animal Husbandry Department, Ranchi (Annexure 2 to the writ petition), whereby one Sri Raj Bansh Ram has been appointed as Technical Assistant, because of exigency, for a period of six months with clear stipulation that his appointment can be cancelled without prior intimation and he will have to appear before the Selection Committee at the time of regular appointment. From other letter containing Order No. 218 dated 27th August, 1999 (Annexure 3 to the writ petition), issued by the Regional Director South Chhotanagpur Range, Ranchi, it appears that ten persons, such as Sri Krishna Prasad Vidya Bhushan Prasad and eight others, many of whom are petitioners herein, were appointed as Technical Assistants on ad-hoc basis because of administrative exigency, with clear stipulation in their letter of appointment that they may continue till regular appointment is made on the recommendation of Subordinate Service Selection Board, Bihar, Patna. Rest of the petitioners of this writ petition while claimed to have been similarly appointed have not enclosed the copies of their letters of appointment.

Petitioners Subodh Kumar Verma and others of CWJC No. 879 of 1999 (P) have enclosed a letter containing Order No. 103 dated 9th May, 1991 (Annexure 2 to the writ petition), whereby 1st petitioner Mr. Subodh Kumar Verma and three others, who are not the petitioners in the present case, were appointed as Technical Assistants on ad-hoc basis for a period of six months with clear stipulation that their services can be terminated any time. Another letter bearing Order No. 82 dated 13th April, 1992 has been enclosed by the petitioners to show that 1st petitioner Mr. Subodh Kumar Verma and five others, who are not the writ petitioners in the present writ petition, were appointed on ad-hoc basis until regular appointment is made on the recommendation of the Subordinate Service Selection Board. This shows that Subodh Kumar Verma and others were appointed afresh on 13th April, 1992, but again on ad-hoc basis. Letters of appointment of rest two petitioners have not been enclosed with the writ petition.

So far as petitioner Ramesh Kumar Singh of CWJC No. 3639 of 2000 (R) is concerned from the letter containing Order No. 198 dated 6th July, 1990, attached by him as Annexure-3 to the writ petition, it appears that he was appointed by the Regional Joint Director South Chhotanagpur Range, Ranchi, as Technical Assistant on ad-hoc basis for a period of six months and such appointment was made with clear stipulation that it can be terminated any time. It was extended by Order No. IX dated 17th January, 1991 by the Regional Joint Director, South Chhotanagpur Range, Ranchi until regular appointment is made through Subordinate Service, Selection Board, Bihar Patna or till final decision is taken by the Headquarters.

4. From the letters of appointment as enclosed and discussed, it will be evident that the petitioners were not appointed on regular basis. Their appointments were ad-hoc in nature till the regular appointment was to be made or until final decision as was to be taken by me Headquarters. In the impugned Letter No. 5530 dated 23rd October 1998 the respondents have shown the following grounds, while ordered to cancel the illegal appointments :

(i) The Regional Officers had no power to appoint but the power was vested with the Director, Animal Husbandry,

(ii) The appointments were made without any recommendation of the Subordinate Service Selection Board,

(iii) In terms with the order dated 31st December, 1987 the promotion and appointment could have been made by the Director, Animal Husbandry and not by the Regional Officers;

(iv) There was a ban on appointments since 1st August, 1985;

(v) No advertisement was issued giving opportunity to other eligible candidates;

(vi) Reservation Rules were not followed;

(vii) Appointments were excess to the sanctioned strength;

(viii) Appointments were made without following the procedures and guidelines; etc.

5. In none of the present cases, the petitioners have given the date of any advertisement. Neither any advertisement was issued in any Newspaper nor there is anything on the record to suggest that the petitioners were called for interview. as no letter of interview has been enclosed. The petitioners have neither disclosed the date of interview nor have disclosed the date on which the Selection Committee here its meeting. No recommendation of Selection Committee has been enclosed with the writ petition nor anything is on the record to show that Rules for reservation were followed. Therefore, the appointments of the petitioners can not be held to be legal.

6. Similar issue fell for consideration before this Court in the case of Uma Kant

Singh and Ors. v. State of Bihar and Ors. CWJC No. 3503 of 1998 (R), and analogous cases. A Bench of this Court vide its judgment dated 18th July, 2001, having noticed letter No. 5530 dated 23rd October, 1998, held the appointment of the writ petitioners of those cases as illegal.

7. In these cases learned Counsel for the petitioners have referred to one or other order, passed by the learned Single Judge of this Court to suggest that the Regional Joint Director had jurisdiction to make appointment. However, learned Counsel has failed to lay hands on any documents to suggest that the petitioners were appointed legally.

8. Learned Counsel for the parties also relied on a decision of the Supreme Court. In fact, the judgment rendered in the case of Uma Kant Singh (supra) was challenged up to the Supreme Court. The Supreme Court in the case of Uma Kant Singh and Ors. v. State of Jharkhand and Ors. Civil Appeal Nos. 5342-43 of 2003, by judgment dated 23rd July, 2003 while did not choose to interfere with the order, passed by the High Court, made certain observations and passed the following orders :

(i) In this view of the matter, we direct the State of Jharkhand to consider at the earliest for recruiting Technical Assistant for the Semen Bank Project and to fill up the existing vacancies within a period of three months from today. For that purpose the respondent-State is directed to constitute a Selection Committee as per the existing Rules within a period of three months from today.

(ii) The appellants whose services are terminated may apply to the Secretary of the Animal Husbandry Department within a period of one month for being re-appointed or for regularization of their services. The Committee shall consider the eligibility, suitability, past record as well as the educational qualifications of the appellants as per the rules as on today,

(iii) The Committee shall give relaxation of age and weightage over outsiders as directed by the High Court. However, if the appellants are found unsuitable for some reasons, it would be open to the Committee to reject their applications.

(iv) Appropriate authority shall issue orders for appointment after considering the roster and the merit list on available vacancies.

(v) The appeals stand disposed of accordingly. There shall be no order as to costs. We, however, make it clear that this case shall not be treated as precedent as we have decided it purely on the facts and in the peculiar circumstances of this case.

9. Learned Counsel for the petitioners submitted that the petitioners should also be allowed similar benefit, as has been allowed by the Supreme Court. However, such submission can not be accepted, the appellants before the Supreme Court having worked for about ten years certain observations and directions were made, as quoted above.

10. So far as these petitioners are concerned, they were appointed in between 1988-91 and their services were ordered to be terminated vide order dated 23rd October, 1998. The Supreme Court while passed certain directions to give weightage to the appellants before the Court, made it clear that the order passed in those appeals should not be treated as precedent, the Court having decided the issue purely on facts and in the peculiar circumstances of those cases.

11. In the circumstances, no relief can be granted to the petitioners though it will be open to them to apply for regular appointment as and when the State Government notifies any vacancy for which they are eligible. In such case, they may ask for and the State Government may grant suitable age relaxation including preference over outsiders in the matter of direct recruitment.

12. There being no merit, all the writ petitions are hereby dismissed. However, there shall be no order as to costs.