

(2009) 12 JH CK 0097
In the Jharkhand High Court

Ramesh Kumar Mishra, Narendra Kumar Singh, Ram Kishun
Baraik and Raju Kumar

APPELLANT

Vs

State of Jharkhand, Commissioner, South Chhotanagpur
Division, Dy. Commissioner and District Establishment, Dy.
Collectorate

RESPONDENT

Date of Decision : 14-12-2009

Acts Referred:

Citation : (2009) 12 JH CK 0097

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard the learned Counsel for the parties.

2. This appears to be the fourth attempt on the part of the petitioners for seeking directions from this Court to the concerned authorities of the Respondents to take steps for their appointment against the existing vacancies.

3. The petitioners had enrolled themselves in the Employment Exchange. Earlier, their services were engaged on temporary basis for Election duty sometime in the year 1991-92. After the Election duty was over, the services of the petitioners were no more engaged. The petitioners along with similarly situated other co-employees, had represented before the State Government. Upon considering the grievances, the State Government by its Circular (Annexure-8), had directed that the existing vacancies in the various Collectorates should be filled up immediately.

In the Gumla Collectorate, there were 33 vacant posts of Assistants. An advertisement was issued and the applications were received. The names of the petitioners were obtained from the Employment Exchange. However, it is informed that out of the 33 vacancies, only 14 were filled-up by absorption of the earlier retrenched candidates and the remaining vacancies have not been filled up.

4. Learned Counsel for the petitioners while referring to the order passed by this Court in the earlier writ application vide C.W.J.C. No. 4036 of 1993 (R), submits that a direction was issued to the Deputy Commissioner, Gumla to consider the case of the petitioners in terms of the earlier order dated-27.04.1993, passed in C.W.J.C. No. 807 of 1993 (R) as early as possible, in respect to the petitioner's grievances. Yet, according to the learned Counsel, the Respondents have not filled up the vacancies by appointing the petitioners. The further grievance of the petitioners is that in the matter of appointment, they have been discriminated in as much as, though 14 persons similarly situated, were absorbed against the existing vacancies but the remaining vacancies have not been filled up by absorbing the petitioners.

5. Counter affidavit has been filed on behalf of the Respondents.

It is sought to be explained by the Respondents that pursuant to the earlier orders of this Court, one general appointment procedure was adopted through the Bihar Public Service Commission in the year 1998 for the District of Gumla. The applications, which were received in response to the Advertisements, including the applications of the petitioners, were forwarded to the Deputy Secretary, Bihar Public Service Commission, Patna on 12.02.1998. In the selection list, which was published by the Bihar Public Service Commission, the names of the petitioners did not transpire.

Learned Counsel for the Respondents submits that the petitioners cannot claim that their applications were not considered at all. It is further submitted that the petitioners were admittedly appointed against temporary vacancies and, as such, they cannot possibly claim for their regularization in service without undergoing the procedure laid down by the Rules for their regular appointment. Learned Counsel adds by referring to Para 15 of the counter affidavit, that though initially 14 out of the 33 vacancies were absorbed but subsequently all the remaining vacancies have been filled up and at present, there is no further vacancies existing in the Gumla Collectorate and the petitioners have already been informed about the present status with reference to their individual applications, by letter dated 31.01.2007. It is further explained that the appointment of the "Chantnigrast" Census employees of 1991 was made as per the specific Government decisions and directions and as such, their appointments cannot be challenged or disputed by the petitioners. A distinction has been sought to be made by the Respondents in the case of the petitioners vis-a-vis those, who are earlier employed in the Census Department. It is sought to be explained that the appointment in the Census Department, was in accordance with the Government Policy and decisions, whereas the petitioners were not employed in the Census Department. Rather, their services were engaged only for conducting Elections for the relevant period and it was purely of temporary nature.

6. Upon hearing the rival submissions of the learned Counsel and going through the records, I find that the initial appointment of the petitioners was purely on temporary basis for a temporary period for the purpose of conducting Elections

at the relevant time. It appears that subsequently, claiming parity with those employees whose services were engaged in the Census Department and were thereafter retrenched, the petitioners had also staked their claim for their appointment. A Circular was issued by the State Government vide Annexure-38, instructing the Collectorates of every district to undertake the process of filling up of the vacancies, in each district collectorate. It further appears that pursuant to the directions as contained in the Government instructions and also the directions contained in the order in the several writ applications, the concerned authorities of the Respondents had initiated the process of selection and appointment through the B.P.S.C. The petitioners had also submitted their respective applications, which, according to the counter affidavit of the Respondents, was forwarded to the B.P.S.C. and as it appears, in the final selection list published by the B.P.S.C., the petitioners were not selected. The petitioners cannot claim that their cases were not considered at all by the Respondents. Even in the directions contained in the earlier orders of this Court, the Respondents-authorities were directed to consider the case of the petitioners for their appointment. Such appointments against the permanent vacancies, could be undertaken only through the B.P.S.C. The petitioners were allowed to participate in the selection process. The petitioners cannot, therefore, maintain any grievance, alleging that the Respondents have not considered their case.

7. In the light of the above facts and circumstances, I do not find any merit in this writ application. Accordingly, this writ application is dismissed. However, if any advertisement, is issued by the State Government against the future vacancies, the petitioners shall be at liberty to submit their respective applications, which the Respondents-authorities shall consider particularly in the light of the fact that the petitioners have had a working experience of two years during the temporary period, which they had worked and if possible, to grant them the extension of the age relaxation.