
(1994) 01 PAT CK 0007

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 74 of 1994

Ranjeet Kumar Roy and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 18-01-1994

Acts Referred:

Citation : (1994) 1 PLJR 285

Hon'ble Judges : R.N. Prasad, J;B.P. Singh, J

Bench : Division Bench

Advocate : Tara Kant Jha and Kaushal Kumar Jha, for the Appellant;
Brahmanand Singh, for the Respondent

Judgement

B.P. Singh and R.N. Prasad, JJ.—In these writ petitions the Petitioners are the candidates who have applied pursuant to the advertisement (Annexure-1) for appointment to the posts of Sub-Inspector of Police. Their grievance is that though they had competed in the physical tests, they are not being permitted to take the written examination on the ground that they do not possess the requisite educational qualification, as prescribed in the advertisement.

2. The facts, not in dispute, are that the Petitioners applied for appointment to the post of Sub-Inspector of Police pursuant to Annexure-1. Annexure-1 is the advertisement which lays down the conditions of eligibility. The educational qualification prescribed in the advertisement is graduation from a recognised University or equivalent educational qualification recognised by the Government of Bihar There are other conditions of eligibility, such as physical fitness etc. The procedure to be followed, is that the candidates will first be subjected to the physical fitness test and if found to be fit, they have to take the written examination. Thereafter, an interview is to be held 3. The advertisement invites applications from qualified candidates and fixes the last date for receipt of such applications, which is 12th August, 1993. Obviously, therefore terms of the advertisement the candidate must be qualified in all respects on the date of the application. In any event, they must possess such qualification on the last date

on which the application may be submitted namely, 12th August, 1993. We have no doubt that any candidate who may acquire such qualification later than 12th August, 1993 shall not be eligible in terms of the advertisement. In a similar case, we have taken the same view, namely, in C.W.J.C. No. 8685/93, disposed of on 13-1-1994. Our view also finds support from a decision of a Division Bench of this Court, reported in Umeshwar Prasad Rai and others Vs. The State of Bihar and others, . We, therefore, hold that the candidates who apply for appointment as Sub-Inspector must possess the requisite qualification on 12th August, 1993, which is the last date for making the application.

4. It was faintly urged before us that if the applications filed by the Petitioners were entertained by the authorities, and they were permitted to take part in the physical fitness test, they should not be prevented from taking the written examination on the ground that they do not possess the necessary educational qualification. We are not prepared to go to the extent of holding that any special equity has arisen in favour of the Petitioners merely because their applications have been entertained and they were permitted to take physical examination test. We are also of the view that no question of promissory estoppel arises in the facts and circumstances of the case. If the Petitioners are found to be not qualified for appointment as Sub-Inspector of Police, their applications can be rejected at any stage, and even if they are appointed, such appointment may be cancelled on the ground that they did not possess the requisite educational qualification. The argument based on equity and promissory estoppel must, therefore, be rejected.

5. We, therefore, hold that all those candidates whose B.A/B.Sc/B.Com etc. results were declared on or before 12th August, 1993 are eligible for appointment as Sub-Inspector of Police, subject" to their competing in the competitive examination.

6. Some of the Petitioners have produced before the authorities their marksheets in scaled covers, marked "confidential". It was sought to be urged on their behalf that since their marks had been tabulated, they should be deemed to be graduates from recognised Universities. These marksheets bear dates subsequent to 12th August, 1993. Moreover, there is no indication in the marksheets as to when the result was declared. It would, therefore. not be safe to act on the basis of the marksheets produced by some of the Petitioners, because that would give no indication as to whether the Petitioners were qualified as on 12th August, 1993. It may be that the results were declared much earlier, but the marksheets were issued later. It may be that the marksheets were issued later than 12th August, 1993, and the results have yet to be formally declared. We, therefore, find no fault with the authorities in not acting merely upon production of marksheets in sealed covers, in the absence of any proof of the fact that the result had been declared by the University before 12th August, 1993.

7. We have no doubt that upon the declaration of result the candidates

concerned acquire the educational qualification. The practice of holding convocation is not followed in this State and, therefore, it would be futile to insist upon production of degrees by the candidates. It was, however, submitted before us that even the practice of formally declaring the result is not followed in many of the Universities in Bihar. According to the Petitioners, after the examination is held the marks are tabulated, and the result finalised. Thereafter, the marksheets are sent to the respective institutions without there being a formal declaration of result by the University. It was, therefore, submitted that if formal declaration of result is insisted upon, those candidates who have qualified from the Universities where the result is not formally declared, may be debarred from taking the competitive test.

8. In the interest of justice, we direct that if the University certifies that no formal declaration of result is made by the "University concerned, and that the result of the examination was finalised on or before 12th August, 1993, and all that remained to be done was the ministerial act of despatching the marksheets to the different institutions, then the Petitioners should be deemed to have the requisite qualification as on 12-8-1993. In these circumstances, these writ applications are disposed of with the following directions:

(1) All those candidates whose B.A./B.Sc./B.Com etc. results were declared prior to 12th August, 1993, shall be considered to be qualified in terms of the advertisement (Annexure-1) and their cases should be considered in accordance with law.

(2) Where the concerned University does not formally declare the result, the Petitioners shall produce a certificate from the Registrar of the concerned University to the effect that:

(a) there is practice of formal declaration of result in the University; and

(b) that the results of B.A./B.Com/B.Sc. etc were finalised on or before 12th August, 1993 and all that remained to be done was to despatch the mark-list to the various institutions.

(3) If a certificate to this effect is produced by the Petitioners, and in terms of the certificate it is found that the result of qualifying examination taken by the concerned Petitioner was finalised on or before 12th August, 1993, the shall also be deemed to have the requisite educational qualification in terms of advertisement (Annexure-1). This is, however, subject to the condition that in the University concerned there is no requirement of formal declaration of result.

9. We are informed that the written test is to commence on 22nd January, 1994. If the Petitioners are in a position to produce the necessary certificate from the University concerned on or before that date, they should be permitted to take the written examination. In the alternative, the Respondents may consider whether a supplementary written test should be held for such candidates, giving them sufficient time to produce such certificate. It will, however, also be open to

the Respondents to permit the Petitioners to take the written test on their furnishing a written undertaking that they shall produce the requisite certificate from the Registrar of the University concerned within the time granted, and specifically stating that they shall claim no legal right or equity on the ground that they have been permitted to take the written test. We have, left these alternatives open to the Respondents, because we are not aware of the difficulties the Respondents may face if they are required to permit a large number of additional candidates to appear at the written examination which is likely to commence on 22nd January, 1994. The authorities will take a decision which appears to them to be practicable and feasible. As observed earlier, they may either hold a supplementary examination for such candidates or permit them to take the written examination, which is likely to commence on 22nd January, 1994, subject to their furnishing the undertaking. We further make it clear that if in terms of the undertaking, the concerned candidate does not produce the requisite certificate from the Registrar of the University concerned, he shall not be considered for appointment.

10. We further direct the Universities in the State of Bihar that in case an application is made for grant of certificate from the Registrar of the University concerned, the Registrar shall issue the necessary certificate having regard to the facts and the practice prevalent in the concerned University. He shall clearly mention in the certificate (i) whether the results of B.A./B.Sc./B.Com. are or not formally declared by the University and (ii) if not, the date on which the B.A./B.Sc./B.Com. results were finalised, and all that remained to be done was to despatch the mark list to the various institutions.

11. These directions will apply to all candidates, including those candidates who may have approached this Court earlier, provided they produce the aforesaid certificate that their result was finalised on or before 12th August, 1993, and subject to furnishing the undertaking, if required

12. These writ applications are disposed of in the above terms. Let a copy of this order be given to the counsel for the Respondents for immediate communication to the authorities concerned.