

(2000) 01 PAT CK 0150
In the Patna High Court
Case No : C.W.J.C. No. 7431 of 1998

Ranju Kumari

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 12-01-2000

Acts Referred:

Citation : (2000) 3 PLJR 307

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Aditya Narayan Singh, in C.W.J.C. No. 7431 of 1998 and Amar Nath Singh, C.W.J.C. No. 8645 of 1999, for the Appellant; A.P. Jittu, Binod Kr., Amod Kr. Sinha for state and Ashok Kumar Choudhary, for B.P.S.C., for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—In both the cases, as common prayer has been made, they were heard together and are being disposed of by this common order.

2. These cases relate to appointment to the post of Auxiliary Nurses Midwifery in different districts of the State. Petitioner, Anju Kumari made limited prayer for appointment in the district of Siwan, whereas the other Petitioners Ragini Kumari and others prayed for such appointment in the districts of Saharsa, Dhanbad, Godda, Katihar, Jehanabad, and Patna. Prayer has been made to direct the Respondents to make appointment on the basis of marks obtained in A.N.M. Examination conducted by the Bihar Nurses Registration Council in terms with old Rule/Guideline and order of this Court dated 25th July, 1997 passed in the case of In re: Sudha Kumari and Ors. in C.W.J.C. No. 6870/96 and analogous cases.

3. The main plea taken by both sets of Petitioners is that the process of selection having started prior to 10th June, 1996, those posts of A.N.M. are required to be filled up on the basis of old Rule/Guidelines, as decided by this Court in the aforesaid cases of Sudha Kumari and Ors.

4. Admittedly, a different Procedure for appointment to the post of A.N.M. used

to be followed prior to 10th June, 1996, till new guidelines came into existence, vide Government's Resolution contained in Memo No. 435 dated 10th June, 1996. By subsequent Resolution, power of selection was vested with B.P.S.C. and Procedure of selection was changed stipulating written competitive examination in the matter of appointment.

5. In C.W.J.C. No. 8645 of 1999 (Ragini Kumari and others), the State has taken specific stand that the Petitioner having taken part in the competitive test held by the B.P.S.C. and having not come out successful, now cannot pray for appointment/selection on the basis of old Rule.

6. In C.W.J.C. No. 7431 of 1998 (Ranju Kumari), this Court on 5th January, 2000 took into consideration that there was nothing on the record to suggest that the process of selection started prior to 6th October, 1996, when the fresh guideline/ resolution was issued by the State. By way of last chance, the counsel for the Petitioner was given time to file supplementary affidavit.

7. Today, a supplementary affidavit has been filed and statement made that the process of selection was started prior to 10th June, 1996. In support of such claim, a list of trained A.N.M. has been annexed with the said affidavit, stated to be a part of Annexure-6.

8. From the said list, it appears that the same was prepared by the Civil-Surgeon-cum-Chief Medical Officer, Siwan on 16th June, 1995, but the same cannot be stated to be a select list/panel, nor it gives any idea that any step was taken for appointment to the post of A.N.M. prior to 10th June, 1996.

9. Counsel for the Petitioners relied on the decision of Sudha Kumari (supra) to show that the process of selection started prior to 10th June, 1996. But the aforesaid decision cannot be relied in the case of Petitioners as there is nothing to show that the case of the Petitioners also taken up, when such process of selection started and taken into consideration in the case of Sudha Kumari (supra).

10. In the aforesaid circumstances, no relief can be granted to the Petitioners, as sought for. The Petitioners of C.W.J.C. No. 8645 of 1999 since taken part in the subsequent examination held by B.P.S.C. now they cannot ask for appointment in pursuance of the old Rules/Guidelines.

11. If any person below the names of Petitioners in the merit list/panel selected and appointed in last three years, such Petitioners may bring the same to the notice of the competent authority and may ask for appropriate relief.

12. Both the writ petitions are dismissed with the aforesaid observations.