

(2020) 02 PAT CK 0254

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3072 Of 2020

Rash Bihari Ram And Anr

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 18-02-2020

Acts Referred:

Citation : (2020) 02 PAT CK 0254

Hon'ble Judges : Shivaji Pandey, J;Anjani Kumar Sharan, J

Bench : Division Bench

Advocate : Jayant Kumar Karn, Rajesh Kumar Verma

Final Decision : Dismissed

Judgement

Heard learned counsel for the petitioners and counsel for the Union of India.

The present matter relates to promotion to the cadre of Postal Service Group 'B' for the vacancy of the year 2010-11 on the basis of limited departmental examination. In the year 2010-11, 32 vacancies were notified and the break-up of the vacancy was OC-23, SC-07 and ST-02 but, on the basis of the order dated 26.5.2011 passed by the Chandigarh Bench in O.A. 399/PB/11 directing for re-assessment of the available vacancy position in terms of the recruitment rule before next examination, the vacancy was re-assessed on 27.5.2011 but, before that, the examination was conducted 29.3.2011 and, thereby, the vacancy has been reduced to 3. That was again challenged before the Central Administrative Tribunal, Patna in O.A. No. 540/2011 and, vide judgment and order dated 19.7.2012, the Tribunal, after considering all aspects of the matter including vacancy position and the departmental notification, rejected the same and the order passed by the Tribunal has remained unchallenged as the petitioners never challenged the same before any court of law or Tribunal. The same issue was again cropped up before the Hyderabad Bench giving direction in what manner the vacancy is to be calculated, the view was affirmed up to the Hon'ble Apex Court.

The Postal Department has re-assessed the vacancy position for the year 2012 on-wards. Accordingly, the vacancy was re-assessed and the same was notified for promotion and, accordingly, after departmental examination, promotion has been granted.

Learned counsel for the petitioners submits that even the Apex Court, in its judgment, has directed to carry out re-assessment of vacancy but without affecting those persons who have already been promoted but, they have been granted promotion after reassessment of the vacancy position from the year 2012 on-wards but, the authorities have not re-calculated the vacancy for the year 2010-2011 and, as such, the authority should recalculate the vacancy and fresh result be published.

In the present case, we would have entered into the merit of the case but, as the legal wall is standing against the petitioners as a reasoned order has been passed which remains unchallenged all the time, as because others have been granted relief by different Tribunals in different cases, that will not create a cause of action for the petitioners for raising their grievance as it is barred by res-judicata in between the parties.

In that view of the matter, it is very difficult for us to find any illegality in the order impugned. We have not delve into the merit of the case.

Accordingly, this writ application is not maintainable and the same is dismissed.