
(2008) 01 PAT CK 0163
In the Patna High Court
Case No : CWJC No. 14710 of 2001

Ravi Bhushan Chakrawarti

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 04-01-2008

Acts Referred:

Citation : (2008) 2 PLJR 461

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Advocate : A.K. Sinha and S.S. Pandey, Harish Kumar, for the Appellant; Rani Kumari @ Rani Singh for the State, for the Respondent

Final Decision : Allowed

Judgement

Mridula Mishra, J.—Heard counsel for the petitioner and the State as well as the counsel appearing for the B.P.S.C. Supplementary counter affidavit has been filed on behalf of the B.P.S.C. as per the direction of this court.

2. This application was filed by the petitioner for a direction to the respondent Nos. 3 to 5 to publish the pending result and appoint him on the vacant post of Assistant Teacher in any of the Elementary Schools with effect from the date his juniors have been appointed on the basis of merit list position.

3. The B.P.S.C. published Advertisement No. 61 of 1996 inviting applications for appointment to the post of Primary Teachers in the district of Vaishali. The petitioner also applied for the post and he appeared in the preliminary and he was found successful. Thereafter he appeared in the main competitive examination. The result of successful Primary Teachers to be appointed in the Vaishali district was published on 25.2.2000 in which the roll number of petitioner was not appearing. The petitioner enquired about it and he came to know that the candidatures of some of the candidates were pending for verification of photographs. A notice was also published in the newspaper for verification of the photographs in which the petitioner's roll number was also

mentioned. In response to this notice the petitioner appeared before the Secretary of the B.P.S.C. alongwith his documents and photographs. His handwriting was also verified and compared with the handwriting on the answer books. Thereafter the petitioner was waiting for publication of his result as well as for intimation about the appointment but it was not done. In the meantime the candidates who appeared with the petitioner for final examination, in their favour the appointment letters were issued. So far petitioner is concerned, the appointment letter was not issued. Ultimately this application has been filed.

4. It has been submitted by the petitioner's counsel that during the pendency of the writ application the letter of appointment has been issued in favour of the petitioner on 14.7.2003 and he has joined on 16.7.2003. Now the only question to be decided is regarding the seniority of the petitioner as his appointment and joining has been delayed for almost 3 years on account of delay and laches caused by the respondents. The seniority of the petitioner should be decided considering his place in the merit list. In support of his submission counsel for the petitioner has placed reliance on a decision in the case of Arbind Kumar Bharti and Ors. vs. The State of Bihar and Ors., 1997(1) PLJR 641. In this decision it has been held that it is settled law that if some persons are appointed in one transaction in pursuance of one advertisement then seniority is to be dependent on the basis of position of such persons, as appearing in the common merit list and not on the basis of the date of joining.

5. In the supplementary counter affidavit which has been filed by the B.P.S.C. on the direction of this court it has been mentioned that the petitioner's position in the combined merit list is 298 and in the merit list of Extremely Backward Class category, his position is 57. Considering his position in the merit list, his seniority should also be decided by the authority on the basis of merit list. So far the joining of the petitioner is concerned admittedly it has been delayed by three years and that cannot be a deciding factor so far his seniority is concerned. Accordingly this application is allowed.