
(2013) 03 JH CK 0102
In the Jharkhand High Court
Case No : WP (S) No. 1788 of 2005

Samir Kumar Sinha

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-03-2013

Acts Referred:

Citation : (2013) 3 JLJR 101

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Saurav Arun, for the Appellant; V.P. Singh, for the Respondent

Final Decision : Dismissed

Judgement

S. Chandrashekhar, J.—This writ petition has been filed seeking appointment/regularization on the post of Marketing Supervisor and for quashing the result published on 17.3.2005 in daily newspaper "Prabhat Khabar". The petitioner joined the post of Clerk-cum-Tax Collector in Bazar Samiti, Dumka on daily wages on 2.2.1976. The petitioner continued to work there and in the meantime, services of several other persons were regularized and the Marketing Board took a decision to regularize the services of persons working on daily wages however, the service of the petitioner was not regularized. The petitioner made several representations also and when his grievance was not redressed, the petitioner moved the Patna High Court in C.W.J.C. No. 4697 of 1990 seeking regularization of his service as Marketing Supervisor. The said writ petition was disposed of by order dated 20.11.1992 with a direction to the respondents to consider the case of regularization of the service of the petitioner. Still, the service of the petitioner was not regularized and therefore, he again moved the High Court in C.W.J.C. No. 9198 of 1998(R) which was disposed of in the following terms:--

The case is remitted to the Managing Director, Bihar State Agricultural Marketing Board (now Jharkhand State Agricultural Marketing Board, Jharkhand, Ranchi) who will fill up the vacant posts of Marketing Supervisors of Market Committees

in accordance with the law within four months from the date of receipt/production of a copy of this order. The case of the petitioner and other similarly situated qualified daily wage employees be also considered for their appointment against such vacant posts giving weightage over outsiders and relaxing the age, if so required.

In case there is no vacancy to comply the Court's order within four months, the Managing Director will communicate it to the petitioner within the period aforesaid.

It will be also open to petitioner to bring to the notice of the Managing Director that there are vacancies including the post against which he is functioning.

This writ petition stands disposed of with the aforesaid observations and directions.

2. The respondents came out with an advertisement on 6.5.2004 for appointment of Marketing Supervisors. The petitioner applied for the said post however, when the result was published on 17.3.2005, the name of the petitioner did not figure as a successful candidate. The petitioner thereafter, made representation again to the authorities however, he was not given a regular appointment on the post of Marketing Supervisor and therefore, he was constrained to move this Court again.

3. Sri V.P. Singh, learned senior counsel for the respondent-Marketing Board appears and submits that in compliance of order dated 6.9.2002 passed in C.W.J.C. No. 9198 of 1998(R) advertisement for filling up the post of Marketing Supervisor was issued and eligible candidates were selected. As the petitioner could not be declared successful he was not appointed on the post of Marketing Supervisor. Again, an Advertisement (No. 11 of 2006) was issued for appointment on the post of Marketing Supervisor. The petitioner applied in terms of the advertisement and appeared in the examination. The petitioner was selected and he was appointed on the post of Marketing Supervisor on 20.6.2008. Since the petitioner has been selected and appointed on the post of Marketing Supervisor his grievance has been redressed and thus, this writ petition has become infructuous.

4. Mr. Saurav Arun, learned counsel appearing for the petitioner submits that on 26.4.2005, when the writ petition came up for hearing, this Court was pleased to direct the respondents to keep one post reserve/vacant. The petitioner who has been working since 1976 has been illegally denied the benefit of regularization of his service. Although, he has been appointed on the post of Marketing Supervisor by office order dated 20.6.2008, the petitioner is entitled for grant of benefit of earlier services rendered on the post.

5. Heard both the sides and perused the documents on record.

6. On perusal of orders passed in the proceeding of writ petitions filed by the petitioner earlier it is clear that a direction was given to the respondent for

considering the case of the petitioner and for filling up the vacant post of Marketing Supervisor on which the petitioner and others had been working since long. The petitioner has been given appointment by order dated 20.6.2008 and he has accepted his appointment and therefore, he cannot be permitted to contend that the benefit of the past service should be granted to him. Order of appointment dated 20.6.2008 appointing the petitioner on the post of Marketing Supervisor is a fresh order of appointment of the petitioner on the post of Marketing Supervisor and it has not been stated in the appointment order that benefit of the past service would be given to the appointees. The petitioner has accepted order dated 20.6.2008 and he has joined the post of Marketing Supervisor in pursuance of the said order. Moreover, in the writ petition no application seeking amendment in the prayer clause of the writ petition has been made. A supplementary affidavit dated 21.8.2009 has been filed bringing on record office order dated 20.6.2008 and a statement has been made that the petitioner has made representation for grant of benefit of past service however, such benefit has not been granted to the petitioner. I am of the view that since no prayer for grant of benefit of past service has been made by the petitioner and since he has accepted the appointment communicated by office order dated 20.6.2008 appointing him on the post of Marketing Supervisor, the petitioner cannot be granted any relief. Accordingly, the writ petition is dismissed.