
(2016) 08 JH CK 0110

In the Jharkhand High Court

Case No : W.P. (S) No. 573 of 2015 with I.A. No. 5761 of 2015 with I.A. No. 3008 of 2016

Sanjay Kumar Sinha

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 03-08-2016

Acts Referred:

Constitution of India, 1950 — Article 16, Article 226

Citation : (2017) 1 AIRJharR 218

Hon'ble Judges : Mr. H.C. Mishra, J.

Bench : Single Bench

Advocate : Mr. Sameer Saurabh, Advocate, for the Petitioners; Mr. Jai Prakash, AAG, for the Respondents

Final Decision : Allowed

Judgement

Mr. H.C. Mishra, J. - Heard learned counsel for the petitioners and learned AAG for the State.

2. The petitioners were appointed on the posts of Senior Accounts Officer in the unified State of Bihar through the Bihar Sub-ordinate Service Commission, in the year 1989, and presently the petitioner Nos. 1 to 5 are posted as In-charge District Audit Officers in different districts of the State of Jharkhand and petitioner No. 6 is posted as Senior Audit Officer at Seraikell-Kharsawan. The petitioners are aggrieved by the fact that the persons, junior to the petitioners were promoted as Sub-Divisional Audit Officers, upon recommendation of the Departmental Promotion Committee in its meeting held on 29th of June, 2012, but the case of the petitioners were deferred due to non-availability of relevant documents, as per remarks indicated against their names in the proceedings of the Departmental Promotion committee. The order of promotion was also issued by the respondent No. 2 Registrar, Co-operative Societies on the same day vide memo No. 1434 dated 29.6.2012, as contained in Annexure-2 to the writ application. The claim of the petitioners is that the junior persons, who were

promoted to the post of Sub-Divisional Audit Officers, are now going to be promoted to the post of District Audit Officers, but the cases of the petitioners have not yet been considered for promotion even to the posts of Sub-Divisional Accounts Officer.

3. By order dated 6.10.2015, passed in this case, learned counsel for the State was allowed to seek instructions in the matter and to file counter affidavit and it was made clear in the order that it would be open to the respondents to take decision in the matter of promotion of the petitioners depending upon satisfaction of all eligibility conditions by individual petitioners.

4. I.A. No. 3008 of 2016 has been filed by the petitioners bringing on record the fact that the meeting of the Departmental Promotion Committee was held after the earlier order dated 6.10.2015 passed in this case, on 22.12.2015, in which, the Departmental Promotion Committee recommended the names of the present petitioners for promotion to the post of Sub-Divisional Audit Officers from the date when their juniors were promoted, i.e., from 29.6.2012.

5. However, pursuant to that recommendation, the order dated 6.1.2016 has been issued by the respondent No.2 Registrar, Co-operative Societies, Ranchi, directing the petitioners to give the details of their assets and only after providing their details of assets, the promotions will become effective. It is the case of the petitioners that the petitioners have submitted the details of their assets, but the formal order of promotion has not yet been issued, in spite of the recommendation of the Departmental Promotion Committee, and the juniors to the petitioners are going to be given further promotion on the post of District Audit Officers.

6. In the backdrop of the aforesaid facts, learned counsel for the petitioners has submitted that the petitioners are being illegally deprived of their promotion for the reasons best known to the respondent No.2, even though the Departmental Promotion Committee has recommended for their promotion and even the persons junior to the petitioners were promoted.

7. Learned AAG, arguing for the respondent State on the other hand though has opposed the prayer, but it is admitted that the matter of the petitioners was recommended for consideration if their promotion before the Departmental Promotion Committee along with all the relevant documents, pursuant to which, it is submitted that the recommendations might have been made by the Departmental Promotion Committee in favour of the petitioners. However, the fact remains that the letter dated 6.1.2016, brought on record by the petitioners as Annexure-1 to the interlocutory application being I.A. No. 3008 of 2016, clearly shows that the case of the petitioners have also been recommended for promotion and they have been asked to submit the details of their assets, upon which, formal order of promotion was to be issued.

8. In view of the said letter, learned AAG is not in a position to defend the action of the respondent No. 2 as to why the petitioners have not yet been given

promotion to the post of Sub-Divisional Accounts Officers.

9. The fact remains that the respondent No.2 Registrar, Co-operative Societies had issued the promotion order of the persons junior to the petitioners on the same date on which the meeting of the Departmental Promotion Committee was held, i.e., on 29.6.2012, vide order contained in Annexure-2 to the writ application, and that too without any rider requiring those persons to submit the details of their assets. In any event there appears to be no reason for delaying the issuance of the promotion order of the petitioners for want of details of their assets, as this formality could be completed even after giving due promotion to the petitioners. The double standard adopted by the respondent No.2 Registrar, Co-operative Societies, is beyond comprehension and gives strength to the apprehensions of the petitioners that they are being denied of their due promotions for some oblique reasons. In any event it is the case of the petitioners that they have already submitted the details of their assets and still the formal order of promotion has not been issued. In my considered view the apprehension of the petitioners is not without any basis, rather in the facts of this case, it appears to be well founded.

10. In view of the aforementioned discussions, the respondent No.2 Registrar, Co-operative Societies is hereby, directed to issue the formal order of promotion to the petitioners positively within the period of ten days from today, and if no formal order is issued by the respondent No.2 within the aforesaid period, this order passed by the Court shall be deemed to be the formal order of promotion of the petitioners to the post of Sub-Divisional Accounts Officer, with effect from the date allowed by the Departmental Promotion Committee, with all monetary benefits. The respondent authorities are further directed to consider the case of the petitioners for promotion to the posts of District Audit Officers also, along with the other officers junior to them, as and when their cases for promotion are taken up.

11. This writ application is accordingly, allowed with the directions as above. Both the interlocutory applications also stand disposed of.

12. Let a copy of this order be made available to the learned AAG forthwith for the needful.