

(2008) 03 JH CK 0061
In the Jharkhand High Court

Sanjeev Kumar Kushwaha and Others	APPELLANT
Vs	
State of Jharkhand and Others	RESPONDENT

Date of Decision : 28-03-2008

Acts Referred:

Citation : (2008) 2 JCR 600

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioners have prayed for a direction on the respondents to appoint the petitioners on suitable vacant posts.

2. It has been stated that by Memo No. PR 356 (Labour-01) 02-03 dated 24th April, 2002, notice was published, inviting applications for preparation of panel for making appointment in various Class-IV posts in the District of Hazaribagh. The petitioners, being found themselves eligible, had applied for appointment on the said post; admit cards were issued to them; they appeared in the examination and were finally selected.

3. A panel of 450 successful candidates was prepared and the petitioners' names were also included in the said panel. Out of the said panel, names of the successful candidates were sent to different departments for appointment. Names of the petitioners were sent for appointment to Indira Gandhi-Residential Girls School, Hazaribagh (hereinafter to be referred as the "School").

4. The petitioners were directed to appear before the Principal of the said School along with requisite documents for their joining. The petitioners approached the Principal of the said School on 5th November, 2005 with all the requisite documents, but to their utter surprise, they found a notice pasted informing the candidates that the vacant posts are for Laboratory Assistant, Treasury Sarkar, Cook, mali etc. and the person having experience certificate in the respective field/job shall be allowed to join. Admittedly, the petitioners had no such experience and they were not allowed to join on the vacant post of the said

school.

5. The petitioners, thereafter, reported the same to the Deputy Commissioner and requested him to allot suitable post/place for their posting. The Deputy Commissioner assured them to issue appropriate order, but nothing has been done. They approached the Commissioner, Hazaribagh also and filed representation before him. The Commissioner by his letter dated 16th February, 2006 asked the Deputy Commissioner to look into the petitioners' grievance and pass appropriate order. But in spite of the direction of the Commissioner, no order has been passed and till date. The petitioners' fate is hanging in balance, though several persons below in the panel, whose names were sent to different departments, have been appointed.

6. It has been stated that the Deputy Commissioner arbitrarily has discriminated the petitioners in selecting them and sending their names to the said school, though the requisitions of the said school was for persons who had experience in the respective jobs. The Deputy Commissioner casually sent the names of the petitioners, though they have no experience of the respective posts, as required by the school. It has been submitted that at other places, the petitioners would have been appointed, had their names been properly sent to the suitable department.

7. A counter-affidavit has also been filed on behalf of the Deputy Commissioner as also on behalf of the Principal of the said school. It has been stated, inter alia, that there was no arbitrariness on the part of the Deputy Commissioner in sending the petitioners' names for appointment to the said school. Requisitions were sent by the different departments and according to the requisitions, names were forwarded to the respective departments in order of merit. The Deputy Commissioner sent the petitioners' names along with other 28 candidates, as there were 34 existing vacancies in the school. However, the Principal of the said school retained only six candidates and returned 22 candidates, as the said school required the persons for different types of job and for that purpose they required candidates with experience in respective fields.

8. It has been stated that in view of the specific requirement, the candidates were asked to apply against the respective posts, if they have certificate of experience, but the petitioners having no requisite experience did not apply for the post. The petitioners' names are kept in the waiting list and their names shall be recommended for appointment as and when the vacancy arises. It has been submitted that the petitioners' claim has not been denied and the panel is still alive and they will be appointed in case of any vacancy.

9. I have heard learned Counsel for the parties and perused the facts and material on record.

10. It is an admitted fact that the petitioners were selected and their names were included in the panel prepared for the purpose of recommending their names for appointment on Class-IV post in different departments. The

petitioners" names were also sent for appointment to the said school, but in view of the specific requirement of the persons with technical experience in their respective fields, the petitioners could not be appointed. I find substance in the grievance of the petitioners that in view of the specific requirement, their names should not have been sent/recommended to the said school.

11. Mr. P. Modi, learned GPI, submitted that at that time, no such specific requisition was made and the Deputy Commissioner was under bona fide impression about the requirement of 34 vacancies of Class-IV employees. Though the said school has specific requirement and has returned the names of the petitioners, they have not been discarded from the panel and their names have been retained in the panel to be forwarded for appointment against suitable vacancies.

12. In view of the above, I do not find any deliberate malafide on the part of the Deputy Commissioner, though he should have been more cautious in sending the names of the persons to the different departments.

13. In the present situation, this writ petition is disposed of directing the Deputy Commissioner to see that the petitioners' names be sent for appointment on priority basis as and when any suitable vacancy is to be filled up during the life span of the panel. The petitioners may also point out, if any such vacancy/vacancies exist(s) to their knowledge, by filing representation before the Deputy Commissioner. If such representation is filed before the Deputy Commissioner, he shall consider the same and pass appropriate order.