

(2008) 08 JH CK 0049

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1992 of 2008

Satyendra Prasad Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 26-08-2008

Acts Referred:

Citation : (2009) 57 BLJR 288 : (2008) 4 JCR 642

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Advocate : Anoop Kumar Mehta and Amit Kumar Sinha, for the Appellant; JC to G.A., for the Respondent

Judgement

D.G.R. Patnaik, J.—Petitioner in this writ application has prayed for quashing the letter dated 11.3.2008 (Annexure-7) passed by the Joint Director, Panchayati Raj (respondent No. 3) by reasons, whereby the recommendation for age relaxation in respect of the petitioner for the purposes of his appointment to the post of Panchayat Sewak, has been rejected. A further prayer has been made to issue a writ of mandamus commanding upon the respondents to grant appropriate relaxation in the age to the petitioner who is presently working as Dalpati continuously from 1990 for appointment to the post of Panchayat Sewak.

2. The case of the petitioner, in brief, is that he was appointed and has been working as Dalpati continuously from 1990 and has offered his candidature for appointment to the post of Panchayat Sewak. The District Selection Committee had considered the candidature of several Dalpatis including the present petitioner and one Badri Prasad who was senior in rank to the petitioner, was recommended for appointment on the post of Panchayat Sewak in the District of Latehar. The recommendation which was forwarded, was accepted in favour of first candidate namely Badri Prasad by way of grant of relaxation of his age. Consequently, the petitioner could not be considered at that stage. However, subsequently, when the post fell vacant, similar exercise was again initiated by the Selection Committee and this time also, the Selection Committee had

recommended the petitioner's case favourably for consideration of granting relaxation of age to him as was done in the case of earlier candidate namely, Badri Prasad.

3. Shri A.K. Mehta, learned Counsel appearing for the petitioner, while referring to the entire note sheet of the file pertaining to the petitioner which was moved in the concerned department of the Government Secretariat, submits that throughout the notings contained in the note sheet, it would transpire that at every stage, the authority concerned had recommended the petitioner's case for favour of consideration of his age relaxation and the matter was finally placed before the Secretary of the concerned Department. Yet, by the impugned order, the petitioner has been informed that his candidature has not been considered by the Joint Director and, the Deputy Commissioner, Latehar has been informed that the petitioner's case for relaxation of his age has been rejected. Learned Counsel explains that the petitioner has been discriminated in the matter of grant of relaxation of age and no reason has been assigned as to why relaxation of age has been refused to the petitioner. Relying upon the judgment of this Court in the case of Md. Nizamuddin Khan and Ors. v. The State of Jharkhand W.P.(S) No. 1433 of 2002 and earlier judgment of this Court passed in the case of Ashok Kumar Mishra and Ors. v. The State of Bihar and Ors. CWJC No. 2522 of 1999 (R), learned Counsel submits that it is settled principle of law that in exercise of discretion, the respondents cannot be allowed to make any discrimination whatsoever and should give equal treatment to the deserving persons. It is lastly submitted that as per the information obtained through the process of Right to Information Act, vacancy in the post of Panchayat Sewak in the District of Latehar does exist.

4. JC to G.A. is present. Though no counter-affidavit has been filed on behalf of the respondents, but learned Counsel submits that he would require time to seek instruction as on what ground has the petitioner's case been rejected.

5. From the averments made by the counsel for the petitioner and also from the perusal of the annexure including recommendation of the Selection Committee and the notings contained in the note sheet (Annexure-5 and 6 respectively), it is evident that the petitioner's case did fall within the zone of consideration along with the other candidates who were admittedly working as Dalpatis for a considerable period. Though, the case of the person senior to the petitioner was considered and allowed, but for the consideration of his case, the petitioner would not have to wait for long of his chance in the next round.

6. Though, in the matter of grant of relaxation of age, it is within the discretion of the authorities concerned, but it is the demand of equity and natural justice that such discretion should be exercised in all fairness and the decision should not reflect any element of discrimination. The impugned order did not indicate as to why, when the benefit of age relaxation was extended to the other candidates whose names were recommended by the Selection Committee, such benefit has been denied to the petitioner.

7. Under such circumstances, I find force in the grounds advanced by the petitioner in this writ application. Accordingly, this writ application is allowed. The impugned order dated 11.3.2008 (Annexure-7), is hereby set aside. However, the petitioner is directed to file a fresh representation before the concerned authority namely, the Director, Panchayati Raj, Government of Jharkhand, Ranchi (respondent No. 2) along with a copy of this order stating the entire grounds of his claim and, within two months from the date of receipt of such representation, the respondent No. 2 shall dispose of the same by reasoned and appropriate order and, in the event the decision of the respondents finds favour of the petitioner, then to issue necessary direction for appointment of the petitioner on the post of Panchayat Sewak in the concerned District.

8. With these observations, this writ application is disposed of.