

(2014) 10 JH CK 0001

In the Jharkhand High Court

Case No : W.P.(S) Nos. 5609, 1362, 1488, 1530, 1643, 1718, 1726, 1762, 2058, 2758, 3714, 4126, 4863, 5155, 6375, 6435, 6469, 7737 of 2012, 197, 209, 336, 363, 2436, 2569, 2993, 3545, 4047, 4132, 4135, 4249, 5585, 5659, 6246, 6682, 6776, 6800 of 2013

Savita Kumari Nayak

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 16-10-2014

Acts Referred:

Citation : (2014) 10 JH CK 0001

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : S.N. Pathak, Sr. Advocate, Rakesh Kr. Roy, Diwakar Upadhyay, Mahesh Kr. Sinha, Nagmani Tiwari, Krishna Kr. Pandey, Manoj Tondon, Pandey Neeraj Rai, Manoj Kumar, Ashok Singh, Alok Anand, Kailash Pd. Deo, Vijay Kr. Roy, Advocate for the Appellant; Rajesh Shankar, G.A. and Prem Pujari Roy, JC to GA, Advocate for the Respondent

Judgement

Aparesh Kumar Singh, J.—These batch of writ petitions were preferred by the petitioners, who were unsuccessful in the recruitment exercise conducted under the advertisement no. 1/08 for appointment to the post of Sub Inspector, Company Commander and Seargent. The State-respondent had published the merit list pursuant to the selection exercise in respect of which it was alleged by the petitioners that the merit list has not been prepared in a proper manner and also suffers from lack of fairness, transparency and credibility. Petitioners had sought quashing of the two merit list prepared pursuant thereto in individual writ petitions and also sought casting of fresh merit list in accordance with law. Other consequential prayers were also made by individual petitioners asking for a stay of operation of the said merit list.

2. It is pointed out by learned counsel for the petitioners that there were interim orders in one or the other cases that any appointment made there under would be subject to the final outcome of the writ petitions. Petitioners in individual writ

petitions had also impleaded certain private respondents.

3. What transpired during the pendency of the writ petitions is that the State Government constituted a Committee headed by the Director General of Police to go into the entire aspect of the matter and come to the finding of any illegality and irregularity committed in the preparation of merit list and also come out with a revised merit list. The Committee found certain lacuna in the preparation of the previous merit list impugned in these writ petitions and came out with the revised merit list in which 42 candidates who were appointed under the earlier merit list, were recommended to be removed from service and in their place, 43 persons were recommended to be appointed. The said recommendation was carried out and services of 42 such appointees were terminated and consequentially 43 persons were appointed as per the revised merit list. Many of the petitioners in the present batch of writ petitions have also got appointment, as have been pointed through various interlocutory applications as well as affidavits filed on their behalf in respective writ petitions. In view of the developments that took place because of the revision in the merit list, petitioners preferred interlocutory applications seeking amendments in the main writ application mainly to challenge the revised merit list. Other amendments were also proposed in individual interlocutory applications on which the State-Respondents were asked to respond vide order dated 14.8.2014.

4. The State-respondents have replied to a number of interlocutory applications as filed in individual writ petitions. Learned Government Advocate Mr. Rajesh Shankar has submitted that because of subsequent development and issuance of revised merit list where under several appointments were also made including many of these petitioners, a peculiar situation has arisen where some of the original petitioners who have been appointed, will have to be impleaded as private respondents in individual writ petitions as they are the beneficiaries of the revised merit list which is proposed to be challenged. It is submitted on their part that the original cause of action was directed against the merit list prepared earlier, whereafter the State itself has carried out an exercise and prepared a revised merit list, as aforesaid. It is also submitted that the original cause of action does not remain. Petitioners who claim a surviving cause of action in these batch of writ petitions and have not been appointed and are not in the revised merit list, they may have the liberty to assail the revised merit list, if they are still aggrieved by it in a fresh writ petition.

5. Learned counsel for the petitioners, however have submitted that the writ petitions have remained pending for over two years and at this stage, amendments which are being proposed, are only to incorporate the subsequent development that have undertaken. It would be quite onerous upon the individual petitioners to once again file a fresh writ petition for raising same cause of action i.e. their non-selection and non-appointment under the same advertisement no. 1/08. Learned counsel for the petitioners also proposed that persons who are going to be affected by challenge to the revised merit list and

subsequent appointments made, can be impleaded as private respondents in the writ petitions itself and an amended writ petition can be filed. However, it is submitted that suggestion proposed by learned counsel for the respondent-State would be quite onerous for the individual petitioners to once again raise their grievances through a fresh writ petition.

6. Having heard learned counsel for the parties on the aforesaid aspects of the matter and giving anxious thought to the instant issue, it appears that because of the developments which have overtaken the original events, a number of petitioners, said to be 21 in these batch of writ petitions have been appointed by the respondent-State, as per the revised merit list. If the revised merit list is allowed to be challenged in these batch of writ petitions, same persons who are petitioners already in the instant writ petitions, will have to be transposed as private respondents in each of these writ petitions. Such a situation is neither proper in the eye of law, nor would be justified on various other counts including the reason that the same counsel who had been prosecuting the case of individual petitioners would have to oppose the appointment of their original petitioners who would now be impleaded as private respondents in these writ petitions. It also appears that many of the private respondents in these writ petitions may have to be deleted as petitioners may have no grievance against them any further and large scale incorporation of parties will have to be made in all these writ petitions, if the proposed amendments are allowed. The entire process of such large scale amendments would itself not only be time consuming and onerous, but also may lead to errors and lacuna left in the pleadings.

7. The aforesaid peculiar state of facts, therefore, has persuaded this Court to come to the conclusion that the petitioners who have surviving cause of action under the advertisement no. 1/08 even after issuance of revised merit list do have a liberty to challenge the said revised list also in a duly constituted writ petition taking all such grounds of law and facts which were available to them originally in these batch of writ petitions and which may have also occurred because of issuance of revised merit list. They will also have the liberty to implead parties who are likely to be adversely affected because of challenge to the revised merit list issued by the respondents.

8. Therefore, considering all these aspects of the matter and after hearing the submission of the parties and weighing the two options, it is considered proper that all these writ petitions be disposed of giving liberty to the persons who are aggrieved to raise their cause of action in duly constituted writ petition as aforesaid in accordance with law afresh.

All these writ petitions are therefore disposed of with the aforesaid liberty. All pending I.A.s are also closed.