
(2004) 01 PAT CK 0105
In the Patna High Court
Case No : C.W.J.C. No. 5289 of 2003

Shailendra Kumar

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 21-01-2004

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2004) 3 PLJR 142

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Rajendra Pd. Singh, Niranjan Kumar and Rajeev Kumar Singh, for the Appellant; Sudhir Kumar, for State, for the Respondent

Final Decision : Allowed

Judgement

Narayan Roy, J.—Heard counsel for the parties.

2. The Petitioner seeks direction upon Respondents-authorities to absorb him Government service and treat him as permanent servant.

3. It is submitted by learned Counsel e Petitioner that initially the Petitioner appointed by virtue of the order as (sic) in Annexure-1 in the year, 1985 a scheme of District Industries Centre Muzaffarpur and thereafter he was (sic) under a regular pay-scale under the District Industries Centre, Muzaffarpur and by virtue of Annexure-5, the Petitioner was transferred in the regular cadre of District Industries Centre Muzaffarpur and he was treated to be a regular employee of the Centre and thereafter the cases of the employees of the Centre were scrutinised by the Screening Committee for their absorption in government service and the case of the Petitioner was recommended for his absorption in the Government service. However, the recommendation aforesaid was acted upon by the Government and the same was turned down vide order as contained in Annexure-7 dated 27.9.2002. It is further submitted by learned Counsel that before passing of the orders as contained in Annexures 6 and 7, some of the

employees of this Centre had approached this Court in C.W.J.C. No. 3712 of 1994 and analogous cases which were disposed of by this Court with certain direction to the authorities to consider the cases of the writ Petitioners and when the order of this Court was not complied with, they came in this Court in contempt and pursuant to the direction of this Court in the contempt proceeding, some of the persons who were not directed to be absorbed, were absorbed by the State Government but the case of the Petitioner was not considered. In this connection my attention has been drawn to the order as contained in Annexure-7 vis-a-vis order as contained in Annexure-9. Most of the persons mentioned in Annexure-7, as it appears, have been absorbed pursuant to the direction of this Court in contempt proceeding except the Petitioner. learned Counsel, therefore, submitted that the case of the Petitioner could not have been discriminated when recommendation was made by the Screening Committee to absorb him in regular service and many of them were absorbed, pursuant to the direction of this Court and merely because this Petitioner was not party in the earlier writ application, benefits given to others cannot be denied to him.

4. A counter affidavit has been filed on behalf of Respondent No. 4 stating therein, inter alia, that at the time of taking over of the District Industries Centre, services of the employees working in the Centre were not taken over and other employees, who have been absorbed in regular service, had earlier moved this Court and as per direction of this Court, necessary orders were issued. The statement made in paragraph 5 of the counter affidavit that services of the Petitioner and others were not taken over at the time of taking over of the District Industries Centre appears to be wholly misconceived at the face of the orders as contained in Annexures 6 and 7.

5. From Annexure-6, it appears that the case of the employees of the District Industries Centres, Gaya and Muzaffarpur was considered for their absorption and five Men Committee was constituted for screening the same and the Petitioner and other employees were recommended for their absorption in Government service and ultimately, when direction of the Screening Committee was not accepted, the matter came to this Court in contempt and necessary directions were issued by the authorities to regularise some of the employees in Government service. From Annexure-5, it appears that the Petitioner was inducted in regular cadre of service of the Centre with effect from 1.1.1997 itself. However, a ground has also been taken in the counter affidavit that since the Petitioner was appointed under the scheme sponsored by the District Industries Centre, the Petitioner cannot be treated to be an employee of the District Industries Centre.

6. I have already indicated that the Petitioner's services were placed in regular cadre of the Centre by virtue of the order as contained in Annexure-5 and, therefore, it would not be correct to say that the Petitioner's services still remained under the scheme sponsored by the Centre. On the contrary, it appears that by virtue of the order as contained in Annexure-5, the Petitioner became the

regular employee in the cadre of the Centre and the cases of similarly situated persons were considered and they have been absorbed in Government service.

7. From the facts stated above, the case of the Petitioner appears to be at par with those persons, who have been absorbed pursuant to the direction issued by this Court in contempt proceeding. Now denial of the benefit of absorption to the Petitioner, thus, would be violative of Article 14 of the Constitution.

8. For the reasons aforementioned, this application is allowed and Respondent Nos. 2 and 4, Secretary, Industry Department, Government of Bihar, Patna and Director, Industry Department, Government of Bihar, Patna, respectively, are directed to consider the case of the Petitioner in the light of the observations made above and take a decision in accordance with law for his absorption in Government service within a period of three months from the date of receipt/production of a copy of this order. No costs.