

(2013) 07 JH CK 0205
In the Jharkhand High Court
Case No : Writ Petition (S) No. 500 or 2013

Shambhu Kumar Ravi

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Citation : (2014) 1 AJR 468

Hon'ble Judges : Shree Chandrashekhar, J

Bench : Single Bench

Advocate : Binod Kumar Dubey, for the Appellant; Pravin Kumar Rana, J.C. to A.G., for the Respondent

Final Decision : Allowed

Judgement

Shree Chandrashekhar, J.—The petitioner has approached this Court seeking a direction upon the respondents for appointment on the post of constable for which the petitioner had applied pursuant to advertisement No. 01/2004. The brief facts of the case are that an advertisement being advertisement No. 01/2004 was issued in the daily newspaper on 13.01.2004 inviting applications for appointment on the post of constable and the petitioner also applied in terms of the said advertisement. The petitioner is holding a Master's degree in Commerce and he is a Home Guard trained person. The petitioner was issued admit card with roll No. 767 and he appeared in physical as well as written test and he was declared successful and his name appeared in the merit list. A letter dated 02.04.2007 was issued to the petitioner directing him to appear on 10.04.2007 for submission of original certificates and medical test at Police Centre, Hazaribagh where he appeared and completed all the formalities however the petitioner was not issued the appointment letter and therefore, he has approached this court by filing the present writ petition.

2. A counter affidavit has been filed taking a stand that since it was found that the petitioner had applied for appointment on the post of constable for two districts, his joining was not accepted. The following stand has been taken by the

respondents in the counter affidavit:

9. It is humbly stated and submitted that at present the Superintendent of Police, Koderma is officiating as the Chairman constable Selection Board and as such the present counter affidavit is being filed on his behalf.

10. It is humbly stated and submitted that the petitioner has filed writ petition late stage for this limitation has accrued and due to that reason petitioner can not get any relief from this Hon"ble Court.

11. It is humbly stated and submitted that from perusal of the relevant of the selection process, it is found that the name of the petitioner appeared in the list of selected candidates and he obtained 15 points (08 points for height and 7 points for qualification) under SC non Home Guard category. According to the merit list his height was found 170 cm and his educational qualification is graduation in his category i.e. SC Non-Home Guard category, the cut off mark for appointment as constable in SC non Home Guard category is 14 points, as he was informed vide memo No. 2389, dated 02.04.2007 (Annexure-2 of the writ application) to appear before on 10.04.2007 in the police line Hazaribagh, along with the original certificate for verification, medical test and re-measurement. It is specifically mentioned there in that is case of any anomaly found during verification, the candidature will be cancelled and that no traveling allowance shall be paid for the said verification. It is also mention therein that the same may not be treated as appointment letter.

In presences of the aforesaid information during the verification. It was found that the petitioner was applied for appointment on the post of constable for two districts. Hence the joining of the petitioner has not been accepted and the claim of the petition was not considered.

23. That is humbly stated and submitted that the selection process for appointment in the post of constable pursuant to Advertisement No. 01/2004 has been completed by the North Chhotanagpur Regional Selection Board, Hazaribagh and after conclusion of the selection process, several appointments have been made in the state under the said post. This is apparent from perusal of memo No. 2026/P, dated 18.08.2010 issued under the signature of the Deputy Inspector General of Police (Personnel), Jharkhand, Ranchi whereby the Superintendent of Police, Hazaribagh, Giridih, Chatra, Koderma and Ramgarh have been directed not to appoint from the merit list issued by the North Chhotanagpur Regional Selection Board, Hazaribagh and the concerned selection process in pursuance of the Advertisement No. 01/2004 as the same became time barred.

24. It is humbly stated and submitted that a fresh advertisement No. 01/2010 has already been published for appointment of constable in different district of the state and the selection process in compliance thereto is about to conclude.

3. Heard learned counsel appearing for the parties and perused the documents

on record.

4. Learned counsel appearing for the petitioner has submitted that the plea taken by the respondents that since the petitioner had applied for two districts his case was not considered, is not justified. Relying on orders passed by this court in W.P. (S) No. 2281 of 2008 and L.P.A. No. 263 of 2012, the learned counsel for the petitioner has contended that such a plea has already been rejected by a learned Single Judge of this Court and the Letters Patent Appeal preferred by the State has also been dismissed on merits by a Division Bench of this Court, and therefore, the present petition also deserves to be allowed.

5. The learned counsel appearing for the respondents reiterating the stand taken in the counter affidavit, has submitted that since the process of selection for the post of constable is in progress pursuant to advertisement No. 01/2010, the petitioner cannot be granted any relief in the present proceeding.

6. On a perusal of the documents on record, more particularly the counter affidavit filed on behalf of the respondents, I find that the respondents have not denied that the petitioner is eligible and he was selected. The only plea taken by the respondents is that since the petitioner had applied for two districts, his case was not considered. A similar issue was raised in W.P. (S) No. 2281 of 2008 titled "Komali Gope Vs. The State of Jharkhand & others", and the learned Single Judge of this Court has dealt with this issue as thus:

3. A supplementary counter affidavit was filed on 28th of August, 2010. Paragraphs 3 and 4 of the said affidavit are quoted below.

3. That the instant affidavit is being filed in compliance of this Hon'ble Court's direction dated 21.07.2010, vide memo No. 2366 dated 03.06.2010 the Superintendent of Police, Dhanbad/Bokaro and Rai Dhanbad were asked to clarify the position about the applicant referred by the petitioner.

4. That in response, the Superintendent of Police, Dhanbad has submitted a report vide memo No. 5819/RO dated 06.08.2010 in which he has stated that the applicants who (referred by the Petitioner) applied from two districts for selection to the post of constable in the same adv. No. 01/2004 have already been appointed in Dhanbad district on the instruction of the Home Department, Government of Jharkhand vide Home Department, Government of Jharkhand letter No. 8658 dated 11.09.2004.

4. It is further pointed out in the said supplementary counter affidavit that the case of the petitioner was forwarded to the Home Department, Government of Jharkhand for necessary instruction vide Police Hqrs. Memo No. 772 dated 16th of August, 2010, but till date no definite information regarding petitioner's appointment has been received so far.

5. Since there is a repeated inaction on behalf of the Respondents, this writ petition is finally disposed of with a direction to the Respondents to ensure that the petitioner is given appointment and a letter to that effect is issued within a

period of three weeks from the date, a certified copy of this order is presented before the concerned authority. It is made clear that since the petitioner was compelled to run from pillar to post for quite along time, the Respondents shall take care that the matter is not lingered further.

7. In W.P. (S) No. 4684 of 2008 titled "Gulab Prasad Dangi Vs. State of Jharkhand and others" a learned Single Judge of this Court has allowed the writ petition taking note of the order passed by this Court in W.P. (S) No. 2281 of 2008, which was taken in appeal by the State of Jharkhand and a Division Bench of this Court dismissed the Letters Patent Appeal preferred by the Superintendent of Police, Koderma.

8. Insofar as the plea taken by the respondents that process of selection of constable pursuant to advertisement No. 01/2010 is in progress and therefore, the petitioner cannot be granted any relief in the present proceeding, I am of the opinion that such a plea is not sustainable in law. The respondents cannot justify their inaction on such grounds more particularly, when similar writ petitions were allowed by orders dated 06.05.2011 and 21.10.2011 and therefore, the respondents were duty bound to grant appointment to the petitioner immediately after the orders were passed by this Court rejecting their plea. The petitioner cannot be denied appointment on the post of constable merely because the selection process pursuant to a fresh advertisement is in progress.

9. In view of the aforesaid, the writ petition is allowed. The respondents are directed to ensure that the petitioner is issued appointment letter within a period of six weeks from the date of communication of this order. The writ petition is allowed in the aforesaid terms.