

(2016) 07 PAT CK 0105

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.4931 of 2014

Shyam Kishore Singh

APPELLANT

Vs

Uttar Bihar

RESPONDENT

Date of Decision : 14-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 PLJR 586

Hon'ble Judges : Mr. Ajay Kumar Tripathi, J.

Bench : Single Bench

Advocate : Mr. Prabhakar Jha, Advocate, for the Respondents; Mr. Md. Nadim Seraj and Mr. Shailesh Kumar, Advocates, for the Petitioners

Final Decision : Dismissed

Judgement

Mr. Ajay Kumar Tripathi, J.(Oral) - There are eight petitioners in this writ application. They were all aspirants for promotion from the post of Assistant to Officer Scale I. However, their hopes and aspirations have been defeated because the respondent Bank have granted promotion to certain persons belonging to the scheduled caste and scheduled tribe category over and above the petitioners. The petitioners, therefore, raise a grievance that such persons, whose names figure in Annexure-5, also respondents 6 to 14 to the writ application, should not have been called for interview and allowed to participate in the process for promotion.

2. The Court is not required to go into the details of the process, which has been followed by the Bank, in matter of grant of such promotion because the rule for grant of such promotion is seniority-cum-merit. Examination was held. The result has been published and the results have been brought on record as Annexure-4 by the petitioners themselves. They also do not dispute that initially the last man in, from the list of successful or shortlisted candidates is at serial no.176. Names of these petitioners figure at serial 186 onwards.

3. Since certain candidates belonging to scheduled caste and scheduled tribe have been given an opening over and above the petitioners obviously their expectation has been thwarted and that is the reason why the petitioners are looking for some kind of a declaration from this Court that there was no occasion for the Bank to call for such people for interview and even grant promotion.

4. Effort has been made by learned counsel for the petitioners to make out a case that by virtue of accommodating certain persons from Annexure-5 the percentage of reservation has been permitted to go beyond the permissible limit for the scheduled caste and scheduled tribe and that is a good ground for this Court to quash such promotions with a direction to consider the case of these petitioners.

5. From the counter affidavit and the stand of the Bank it is evident that a protracted legal battle has been going on the question of grant of promotion, which was initiated in the year 2010. Matter has travelled even before a Division Bench earlier. However, the present exercise has been done in terms of certain directive issued by a learned Single Judge. A copy of the order and direction has been annexed as Annexure-9 to the writ application.

6. The Bank has explained that so far as scheduled caste and scheduled tribe candidates are concerned, since there were backlog vacancies, which were required to be filled up, promotion has been granted on the basis of the backlog and the petitioners cannot claim a right over and above the constitutional right guaranteed to the scheduled caste and scheduled tribe. At the relevant point of time since the candidates in such category were not available, such backlog vacancies have accumulated. The candidates interviewed were for grant of benefit of promotion to reserved categories on which petitioners can have no claim. What their claim is/was only a chance for promotion. But keeping in mind the overall seniority-cum-merit position of the petitioners as well as the right of the candidates, who have been promoted under the scheduled caste and scheduled tribe category, no case for interference is made out in favour of these petitioners.

7. They will have to await their turn within the category they belong to and they cannot impinge upon the right created in favour of the scheduled caste and scheduled tribe candidates merely because the petitioners perceive that it is because of them that their right for consideration and grant of promotion has been defeated.

8. Writ application, therefore, is dismissed.