

(2003) 08 PAT CK 0002
In the Patna High Court
Case No : C.W.J.C. No. 11571 of 2001

Snashi Bhushan Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 18-08-2003

Acts Referred:

Citation : (2003) 4 PLJR 343

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Devendra Prasad Singh, R.K. Sinha, for Bank and J.C. to AAG-I for State, for the Appellant;

Final Decision : Allowed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for quashing the order dated 28th of September, 2000 (Annexure-1) whereby the service of the Petitioner has been terminated.

2. Facts lie in a very narrow compass. Initially the Petitioner was appointed as Field Officer on a consolidated salary of Rs. 450/- for six months by the Bihar State Land Development Bank (hereinafter referred to as the Bank). Later on, by order dated 6th of October, 1987 (Annexure-6) the services of a large number of employees including the Petitioner were regularised by the Bank. Petitioner's service was regularised on the post of Field Officer.

3. It seems that an internal enquiry was conducted by the Bank and the report suggested that a large number of persons were appointed in the Bank in an illegal manner. A show cause notice was given to the Petitioner, to which he replied and on consideration of the same the Bank by the impugned order dated 28.9.2000 decided to terminate the Petitioner's service on the ground that at the time of appointment there was ban on appointment and further while making the appointment the prescribed procedure of appointment viz. the advertisement, reservation, roster etc. were not followed. Further the appointment of the

Petitioner to the post of Field Officer was found to be bad on the ground that the Petitioner had not passed the Bachelor's examination either with mathematics or economics which is an essential qualification. Appointment of the Petitioner has also been faulted on the ground that he had crossed the upper age limit prescribed for appointment.

4. Mr. Devendra Prasad Singh appearing on behalf of the Petitioner submits that the services of a large number of employees of the Respondent-Bank were terminated on the same ground as that of the Petitioner and in the writ application filed by such employees, the plea put forth by the Bank were rejected by a learned Single Judge of this Court and the appeal preferred against the order of the learned single Judge was dismissed by the Division Bench in the case of *The Bihar State Co-operative Land Development Bank Ltd. and Another Vs. Anil Kumar Singh and Others*. Mr. Sinha learned Counsel appearing on behalf of the Bank very fairly concedes that this Court had gone into the questions as to whether appointment was made during the ban-period without following the prescribed procedure and the question of over age but that shall not preclude this Court to give a fresh look into the matter. am afraid, cannot go into this question. Aforesaid pleas were raised before a learned single Judge as also before the Division Bench of this Court and they have negatived the same. Sitting singly cannot go into those questions again.

5. As stated earlier the appointment of the Petitioner has also been found to be bad on the ground that the Petitioner did not possess the minimum qualification for appointment to the post of Field Officer. Mr. Sinha submits that the appointment of the Petitioner is void ab initio on the ground that he did not possess the minimum qualification for appointment hence order terminating his service is not fit to be interfered with by this Court in exercise of a writ jurisdiction. He submits that the post of Land Valuation Officer and that of supervisor were merged and the posts of Field Officer were created with the same scale of pay as that of the Land Valuation Officer and as such qualification prescribed for the post of Land Valuation Officer shall ipso facto apply in the case of the Field Officer. The qualification prescribed for Land Valuation Officer is the Bachelor's degree with mathematics or economics as one of the essential subjects. The post of Supervisor prescribed the qualification of Higher Secondary or Pre-University.

6. Mr. Singh however submits that the qualification of passing the Bachelor's examination with mathematics or economics has not been prescribed for the post of Field Officer and as such it cannot be said that the Petitioner lacks basic qualification.

7. Having appreciated the rival contention do not find any substance in the submission of Mr. Sinha. It is not in dispute that the Petitioner had not passed the Bachelor's examination either with Mathematics or Economics. But nothing has been placed on record to show that the qualification for the post of Field Officer is Bachelor's degree with Mathematics or Economics. Only on account of

the fact that the posts of Land Valuation Officer and Supervisor have merged and the Field Officer carries scale of pay of Land Valuation Officer that itself shall not mean that the qualification prescribed for the Land Valuation Officer shall apply in the case of Field Officer. As stated earlier, the qualification prescribed for the post of Supervisor is Higher Secondary or Pre-University. It is trite that qualification required for appointment to a particular post has to be taken specifically and simply because two posts are merged, the qualification of one of the post shall be applicable to the post which is created in my opinion does not sound logical.

8. In my opinion, matter stands concluded by the judgment of this Court in the case of Anil Kumar Singh (*supra*) and the writ application deserves to be allowed in the same term.

9. In the result, application stands allowed in the aforesaid term. No costs.