

(2017) 11 JH CK 0029
In the Jharkhand High Court
Case No : 5290 of 2007

ST BARNABAS HOSPITAL

APPELLANT

Vs

ASSISTANT PROVIDENT FUND COMMISSIONER & ANR.

RESPONDENT

Date of Decision : 25-11-2017

Acts Referred:

Constitution of India, Article 14, Article 226, Article 16 - Appointment of Commission to inquire into and report on the administration of autonomous districts and autonomou

Citation : (2017) 11 JH CK 0029

Hon'ble Judges : Pramath Patnaik

Bench : SINGLE BENCH

Advocate : Rajendra Krishna, Saurabh Shekhar, Rajiv Ranjan, Shresth Gautam

Final Decision : Dismissed

Judgement

1. In the accompanied writ application, the petitioners have, inter alia, prayed for cancellation of the selection process of the Drivers, held on the basis of the Advertisement, dated 18.06.2007 being Advertisement No. BSL/R-2007-08 by the respondents and for direction to the respondents to conduct fresh examination written, interview and the Driving test.

2. The brief facts, as has been averred in the writ application, are that in pursuance to the Advertisement published on 18.06.2007 for the post of the Driver and Mobile Equipment Operator, the petitioners have applied for the post of the Driver. After scrutiny of their applications, the petitioners have been called to appear in the written examination and subsequently called to appear in the interview. All the candidates, those who appeared in the written and the interview in a single day, were called to appear in the Driving Test. Both the petitioners have submitted all the testimonials including experience certificates and Driving license. However, the petitioners have not been selected for the post of Drivers. Being aggrieved by the non-selection, the petitioners, left with no

other alternative and efficacious remedy, have knocked the door of this Court under Article 226 of the Constitution of India for redressal of their grievances.

3. Controverting the averments made in the writ application, a counter affidavit dated 24.10.2007 has been filed by the respondents, wherein, it is stated and submitted that all the candidates, who appeared in the written test for the post of Driver, were directed to appear for the trade test and interview at the examination venue itself. Since all the candidates who appeared for the written test were qualified to appear for the trade test and interview irrespective of the marks in the written test a notice regarding date and venue of the trade test/ interview was displayed at the examination venue. The same was also announced in each class room during the examination. Further, it has been submitted that the selection process for the post of the Driver consists of three parts i.e. Written test, trade test and interview. Each part is of equal weightage and the final result is prepared after adding the marks of each segment and finally on the basis of total marks, candidates have been short-listed and issued offer of appointment.

4. A supplementary counter affidavit dated 06.02.2017 has been filed on behalf of the respondents in pursuance to the order dated 26.09.2016, annexing the mark-sheet vide Annexure-A/1 including the marks secured by the petitioner. The aggregate marks obtained by the selected candidates is far more than the aggregate marks obtained by the petitioners.

5. A rejoinder to the supplementary counter affidavit filed on behalf of the respondents, has been filed by the petitioners on 13.02.2017 challenging the entire process of selection on the ground of arbitrariness and absolute opaqueness. It has further been submitted that the respondents have adopted pick and choose method. In the rejoinder, some of the infirmities in the selection process, have been highlighted.

6. Another counter affidavit dated 26.03.2017 has been filed by the respondents, justifying the selection of the candidates and the marks secured by the respective candidates as per the B.S.L. Recruitment Manual.

7. Learned counsel for the petitioners basing on the writ application, supplementary affidavit and the rejoinder affidavit, has submitted with vehemence that the selection process has not been done in a transparent

manner, which has resulted in the breach of Article 14 and 16 of the Constitution of India. Learned counsel for the petitioners has further submitted that in the selection process, the respondents have adhered to favouritism and nepotism and thereby transparency has been thrown to the winds.

8. Learned counsel for the respondents has submitted that there has been no favouritism shown to any candidate and on the basis of performance in the written, trade test and the driving test, the selection has been done. Learned counsel for the respondents further submits that the bald allegations, which has

been levelled against the respondents, have not borne out of the records.

9. After having given my anxious consideration to the rivalized submissions and on perusal of the records, this Court is not inclined to accede to the prayer of the petitioners on the ground that the selection process to the posts of the Drivers have already been over, since 2007 and in the meantime, 10 years have elapsed and the selected candidates are working in the respective posts, being selected by the respondents.

"Before parting with the case, I deem it proper to observe that in a public sector undertaking like the respondents-Company, utmost care ought to have been taken to conduct the selection process in a transparent, non-opaque manner and the criteria to be adopted of the selection should have been declared at the commencement of the recruitment process. Accordingly, the process of selection was to be conducted, as has been held by the Hon''ble Apex Court in the decision rendered in the case of A. Manjushree-versus-State of Andhra Pradesh reported in AIR 2008 SC 1470. The view of this Court gets fortified by the decision of the Hon''ble Apex Court rendered in the case of Bishnu Biswas and others-versus-Union of India reported in (2014) 5 SCC 774."

10. In view of the reasons stated in the foregoing paragraphs and as a logical sequitor to the aforesaid reasons, this Court is not inclined to interfere with the selection process and the relief sought for by the petitioner is not entertainable. Viewed thus, the writ petition, sans merit, is hereby dismissed.