
(2020) 02 JH CK 0021

In the Jharkhand High Court

Case No : Letter Patents Appeal No. 306 Of 2016

State Of Jharkhand And Ors

APPELLANT

Vs

Shambhu Kumar Ravi And Ors

RESPONDENT

Date of Decision : 10-02-2020

Acts Referred:

Constitution Of India, 1950 — Article 14, 16

Citation : (2020) 02 JH CK 0021

Hon'ble Judges : H. C. Mishra, J;Deepak Roshan, J

Bench : Divison Bench

Advocate : Manoj Tandon, Anshuman Kumari, Sameer Saurav

Final Decision : Allowed

Judgement

1. Heard learned counsel for the appellant State and the learned counsel for the respondent writ petitioner.

2. The appellant State is aggrieved by the impugned Judgment dated 17.07.2013, passed by the learned Single Judge, in W.P.(S) No. 500 of 2013,

whereby the writ application filed by the respondent writ petitioner was allowed, directing his appointment to the post of Constable in Jharkhand

Police.

3. The respondent writ petitioner had applied for appointment to the post of Constable, pursuant to the advertisement No. 1 of 2004, and one of the

terms of the advertisement was that the candidates could apply only for one district, and were required to give a declaration to that fact also. The

respondent writ petitioner applied for two districts, making false declaration in his application, and he was also selected for the post. By letter dated

2.4.2007 he was directed to appear on 10.04.2007 for submission of the original certificates and medical test. Upon completion of these formalities, no

appointment letter was given to the respondent writ petitioner on the ground that he had applied for two districts. Aggrieved thereby, the respondent

writ petitioner approached this Court in W.P.(S) No. 500 of 2013, and relying upon the cases of certain other persons similarly situated to the writ

petitioner, who were granted relief in W.P.(S) No. 2281 of 2008, and as the L.P.A. filed against that order by the State, being L.P.A. No. 263 of 2012

had also been dismissed, the learned Single Judge allowed the writ application on the ground that similarly situated persons had been granted relief.

Thus, directing the petitioner to be appointed within a period of six weeks from the date of communication of the order. Aggrieved by this order, the

State has filed the present Letters Patent Appeal.

4. By order dated 20.11.2017, the delay in filing this appeal was condoned, the appeal was admitted for hearing and the operation of the impugned

order passed by the learned Single Judge was stayed.

5. The learned counsel for the appellant State has submitted that the impugned Judgement passed by the Writ Court cannot be sustained in the eyes of

law, inasmuch as there is no dispute to the fact that in the advertisement it was clearly mentioned that the candidates had to apply only for one district

and the candidates had also to give the declaration to that effect. The respondent writ petitioner had applied for two districts making false declaration,

which was detected at the time of scrutiny of the documents, and the appointment letter was not given to him.

6. Learned counsel for the appellant State has submitted that the same issue has been determined by a Co-ordinate Bench of this Court in State of

Jharkhand and Others. Vs. Sri Anil Kumar Mehta and Others., reported in 2014 (3) JLJR 34, 6 wherein all these facts were taken into consideration,

including the earlier decisions of the Court in the similar matters, and the decision in L.P.A. No. 263 of 2012. In the said decision, while holding that

the decision in L.P.A. No. 263 of 2012 was not a binding precedent, this Court has laid down the law as follows:-

41. Learned Single Judge failed to consider that the respondents were bound by the condition laid down in the advertisement as they have

willingly accepted the same and if the candidates are bound by the same, no right of appointment can be claimed by them and they have no

right of appointment. Learned Single Judge was not right in saying that the

restriction is arbitrary and violative of Articles 14 and 16 of the Constitution of India. The learned Single Judge did not keep in view the false declaration made by the candidate as also the administrative difficulties of the authorities caused by the candidates by submitting application for more than one district. Therefore, the impugned orders of the learned Single Judge are liable to be set aside.

7. Learned counsel for the appellant State has also submitted that after the decision of the Writ Court in the case of the present petitioner, the petitioner was subjected to medical test and he was found to be suffering from colour blindness and thus, unfit for the post. The medical certificate of the petitioner dated 26.07.2014 has also been brought on record as Annexure-11 to the memo of appeal. Learned counsel for the State accordingly, submitted that the private respondent has no case on merits for being appointed to the post of Constable, and even on the medical ground, he could not be appointed. Learned counsel accordingly, submitted that the impugned Judgment cannot be sustained in the eyes of law.

8. Learned counsel for the private respondent, on the other hand, has submitted that the respondent writ petitioner had applied for the post of Constable pursuant to the advertisement No. 1 of 2004, whereas the persons in the case cited by the learned counsel for the State had applied pursuant to a different advertisement. It is further submitted by the learned counsel that taking into consideration the fact that in the batch in which this respondent had applied, the persons were given the relief and accordingly, the same relief was granted to this respondent also, and in that view of the matter, the petitioner and those persons, who were granted relief by this Court, belong to a different batch of appointees, for whom the decision in L.P.A No. 263 of 2012 shall be a binding precedent.

9. Learned counsel for the respondent accordingly, submitted that the case of the petitioner would still be governed by those decisions of this Court, whereby similar relief was granted to the batch of the persons belonging to this respondent. Learned counsel further submitted that the ground that the writ petitioner was suffering from colour blindness was taken for the first time in this L.P.A., which could not be taken without the leave to be granted by the Court. Learned counsel accordingly, submitted that there is no merit in this appeal and the same is fit to be dismissed.

10. We have also gone through the decision of this Court in L.P.A No. 263 of 2012. In that L.P.A, the issues have not been discussed in detail and the

L.P.A has been dismissed simply on the ground that number of persons who had applied for two districts had been given appointments. There is no

ratio laid down in that L.P.A., which had been dismissed in fact, in limine. We further find that the relevant provisions have been duly discussed by a

Co-ordinate Bench of this Court in State of Jharkhand and Others. Vs. Sri Anil Kumar Mehta and Others., (supra), relied upon by the learned counsel

for the appellant State, in which the Court has considered the conditions laid down in the advertisement and the false declarations made by the

applicants and the effect thereof, and has laid down the law that the candidates were bound by the conditions and if they had acted in contravention of

the conditions, they were not entitle to any appointment. The said decision is a binding precedent, and we do not find any valid reason so as to take a

contrary view. Even otherwise, we find that after the decision passed in favour of the respondent writ petitioner, he was subjected to the medical test,

in which he has been found to be unfit for the post. On that score also, there can be no direction by this Court for his appointment on the post of

Constable.

11. For the reasons aforesaid, we find that the impugned Judgement dated 17.07.2013, passed by the Hon'ble Single Judge, in W.P.(S) No. 500 of

2013, cannot be sustained in the eyes of law, and the same, is hereby, set aside.

12. This Letters Patent Appeal is accordingly, allowed.