

(2008) 12 JH CK 0015

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2581 of 2007

Sudhir Kumar Choubey

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 11-12-2008

Acts Referred:

Constitution of India, 1950 — Article 14, 21

Citation : (2011) 2 JCR 71

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

N.N. Tiwari, J.—In this writ petition the Petitioner has prayed for quashing Memo No. 120/SSB/LG/06/934 dated 6.2.2007 (Annexure- 6) whereby the Respondents have cancelled the entire selection process of appointment to the post of constable. The Petitioner has further prayed for a direction on the Respondents to appoint him as a constable (General Duty).

2. The Petitioner is an unemployed youth. His grievance is that though he was duly selected in the test for appointment to the post of constable under the Directorate of Special Service Bureau after observing all the prescribed procedures and formalities and was found fit in the medical test as far back as in the year 2003, appointment letter has not been issued to him till date.

3. The Petitioner had earlier filed a writ petition being W.P. (S) No. 6939/2006 raising his grievance for the delay in issuing appointment letter. By order dated 5.12.2006, the said writ petition was disposed of giving liberty to the Petitioner to file representation before the Director, Special Service Bureau, New Delhi. The said Respondent was directed to consider the representation and pass appropriate order. By order dated 6.2.2007 (Annexure-6) the Petitioner's representation is said to be disposed of by rejecting the Petitioner's request for appointment to the post of constable (G.D) on the basis of the selection held at Zonal Recruitment Centre, Ranidanga. The Petitioner has challenged the said order and has prayed for quashing the same.

4. It has been contended by the Petitioner that he had been duly selected for the post of constable under the Directorate of Special Service Bureau in the test held for the post and he was found fit in all respects. In medical test held as far back as in the year 2003 too, he was found fit. Since then the Petitioner was in the hope of getting his appointment letter. But instead of giving him appointment, the Respondents have informed that the entire selection process has been cancelled after keeping the Petitioner waiting for years. After final selection, the Petitioner had legitimate expectation of being appointed to the post of constable and in the hope of getting appointment letter he did not try his luck elsewhere. Now he has become over aged for the Government service. The Respondents being the instrumentality of the Welfare State cannot act arbitrarily and deny his appointment after several years of his final selection. The Impugned order is, thus, wholly arbitrary, unjust and violative of Articles 14 and 21 of the Constitution of India and is liable to be quashed and the Respondents be directed to issue letter of appointment to the Petitioner.

5. The Respondents contested the writ petition on the ground, inter alia, that mere selection of a person does not give any vested right to be appointed. The allegation of arbitrariness and discrimination, as made in the writ petition, is wholly without basis. The Petitioner's representation has been rejected giving due reason. From perusal of the same, it would appear that not only the Petitioner has been denied appointment individually, but the entire selection process of the Recruitment Centre, Ranidanga in which 118 candidates including the Petitioner were provisionally selected for the post of constable, was cancelled by the department on receipt of complains of number of irregularities in the process of recruitment. Not even a single person selected provisionally from the said centre, was offered appointment and as such there is no question of any arbitrariness or discrimination alleged by the Petitioner. The allegation of the Petitioner is without any substance and the writ petition is not tenable.

6. I have heard the parties. The Petitioner appeared in person and reiterated his allegation of arbitrariness in not giving him appointment after his due selection in the prescribed recruitment process. He has submitted that after his due selection, he had been waiting for the appointment letter. By refusing his appointment after several years the Respondents have rendered his future dark. By now he has become over aged for any Government service. Earlier the Respondents never informed about the cancellation of the appointment process and kept the Petitioner waiting in the hope of getting appointment letter. The Petitioner is entitled to get appointment or alternatively for equitable reliefs to compensate the loss caused to him.

7. Learned Additional Solicitor General of India appearing on behalf of the Respondents, on the other hand, submitted that the denial of appointment in the facts and circumstances of the case cannot be said to be arbitrary entitling the Petitioner for any equitable relief. It is not the Petitioner's selection alone, rather the entire process of recruitment of Ranidanga Recruitment Centre of the period

from 7.12.2002 to 13.12.2002 has been cancelled on the complains of mass irregularities and malpractices in the recruitment process. Aggrieved by the said cancellation, some of the candidates had preferred writ petitions before the Patna High Court being CWJC No. 4076/2004 (Abhijit Kumar Singh and others), CWJC No. 4184/2004 (Manoj Kumar and another) and CWJC No. 5429/2004 (Ashok Kumar and another). The said writ petitions were disposed of holding that the order of cancellation cannot be faulted with as this is not a case where the candidatures of a few have been rejected, rather the entire selection process itself has been annulled. The Respondents, however, were directed to give age relaxation the future appointment, if otherwise they are found entitled for the post.

8. Considering the facts, materials on record and submissions of the parties, I agree with the view taken by the Patna High Court. In the circumstances of the case, the impugned order cannot be said to be tainted with any arbitrariness or infirmity or violative of any Constitutional Guarantee. The Petitioner, who has been kept waiting for years without informing him about the cancellation of the selection, however, is entitled to age relaxation for the period counted from the date of advertisement of the post till the date he was informed about the cancellation by rejecting his representation by letter dated 6.2.2007. In the future appointment if the Petitioner applies and is otherwise found eligible and suitable for any such post under the Respondents, he shall be entitled to age relaxation to the extent aforesaid.