
(2010) 11 JH CK 0034
In the Jharkhand High Court
Case No : Cont. Case (C) No. 636 of 2009

Tej Narayan Roy

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 20-11-2010

Acts Referred:

Citation : (2011) 1 JCR 382

Hon'ble Judges : Poonam Srivastava, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Poonam Srivastava, J.—Heard the learned Counsel for the petitioner and the Opposite Parties.

2. The claim of the petitioner is that act of contempt has been committed by the Opposite Party Nos. 2 and 3, namely, the State Transport Commissioner, C.M.P.D.I. and the Secretary, Transport Department, C.M.P.D.I. for not promoting or considering the promotion of the petitioner to the Class III post from Class IV on which he is continuously working.

3. The extract of the order passed on 23rd January, 2006 is quoted below: -

...In the present case, it is not clear as to how many Class III posts are vacant for promotion from amongst Class IV employees. In that view of the matter, no specific direction can be issued. However, the petitioner is given liberty to approach the competent authority. If Class III post is vacant for promotion/appointment from amongst eligible Class IV employees and if any such representation is preferred, the authority will determine as to whether such posts are required to be filled up on promotion from amongst Class IV employees and whether the petitioner is eligible to be considered along with others.

The writ petition stands disposed of with the aforesaid observations and directions.

4. The claim of the petitioner is that though a direction was given to determine the promotion of the petitioner but nothing was done and as a result, another contempt petition was moved which is annexed as Annexure-2 to the contempt petition. The case was numbered as Contempt Case (C) No. 401 of 2006, Tej Narayan Ray v. -Rajeev Arun, State Transport Commissioner and Ors. This order was passed on an assurance given by the department that the process of promotion is in progress and will be completed within a period of six months from the said date and accordingly, the contempt application was disposed of. The submission of the learned Counsel is that despite the aforesaid assurance, the matter is still pending and in Paragraph 10 of the show-cause, it has been stated as under: -

That it if further humbly stated that the Respondent department has already taken necessary steps for enacting rules for different categories of its employees viz. Motor Vehicle Inspectors, Enforcement Officials and other department IIIrd and IVth grade employees. The proposal for different cadre rules for appointment and promotion are first vetted by Law and Personnel Department and after getting their approval the same is required to be placed before the Council of Minister for its clearance. Hence, it is clear that enacting cadre rules is a long drawn process and the proposal of different cadre rules of the Respondents department are presently under various stages of pendency and this formality is likely to consume some more time. It is however, assured that the Respondent shall make endeavors to get the clerical cadre rules approved by the State Government latest within three months and as soon as the said cadre rules are enacted all such cases of promotions including that of the petitioner shall be considered by the Departmental Promotion Committee as per law. Individually, the petitioner cannot be entitled for promotion as there are many IVth grade employees working in this department who are senior to him and as per rule of law equal opportunity is to be given to all eligible and potential employees.

5. Learned Counsel for the Opposite Parties has pointed out that the Respondents-department are presently under various stages of preparation and this formality is likely to consume some more time. However, it was assured that the Respondents shall make every endeavour to get the clerical cadre rules, approved by the State Government within the next three months. Nonetheless it is also stated that the petitioner cannot be entitled for promotion as there are a number of IVth grade employees working in the department, who are senior to him and as per rule of law, he is not entitled for promotion, surpassing the senior employees. The opposite party has made an endeavour to appraise this Court of the exact position. Counsel for petitioner has not been able to carve out a case to substantiate his submission of "willful disobedience". The explanation on behalf of the department of the show cause is sufficient to arrive at a conclusion that the contempt petition is devoid of merit and by no stretch of imagination the court can conclude a deliberate disobedience in the eyes of law.

6. In my opinion the contempt petition is liable to be dismissed and the same is

accordingly, dismissed.