
(2012) 01 JH CK 0049

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4401 of 2009

Uma Shankar Prasad

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 09-01-2012

Acts Referred:

Citation : (2012) 3 JCR 340

Hon'ble Judges : Prakash Tatia, C.J;P.P. Bhatt, J

Bench : Division Bench

Advocate : B.K. Prasad and B. Vibha, for the Appellant; M. Khan, ASGI and D.K. Malityar, for the Respondent

Final Decision : Allowed

Judgement

1. Heard counsel for the parties. The petitioner is aggrieved against the order dated 31.10.2002 passed by the Central Administrative Tribunal, Patna Bench, (hereinafter referred to as Tribunal) in O.A. No. 660/1996 as the writ petitioner's O.A had been dismissed.

2. According to the Learned Counsel for the petitioner, the petitioner was appointed on E.D. Mail Peon in the years 1970 and he was eligible for promotion to the post of Postman in the year 1994. However, no process was undertaken for giving promotion from the post of E.D.As to the post of postman in the year 1993, 1994 and 1995 and in the year 1995, the process for promotion was initiated and the petitioner appeared in the departmental examination, wherein though the petitioner was declared successful, he was not accorded promotion. Therefore, the petitioner preferred O.A before Tribunal with the plea that in the year 1994, the petitioner was eligible for promotion and his case was governed by the Rules and Circulars which were in force in the year 1994 and subsequent amendment made in the Rules/Circulars in the year 1995 by the respondents had no application in his case. It was also submitted by the Learned Counsel for the petitioner that the Tribunal had not decided any of the issues raised by the petitioner and had proceeded to accept what has been stated in paragraph No.

11 of the reply that there were 11 more persons senior to the writ petitioner, ignoring the fact that none of them passed the departmental examination for promotion to the post of Postman for the year 1994.

3. Learned Counsel for the respondents vehemently submitted that the Tribunal has recorded detailed arguments as advanced by both the parties, which is apparent from paragraph Nos. 2, 3 and 4 of the impugned order. It is submitted that the petitioner was not eligible for promotion and it was disclosed by the respondents that in the list of examinees, the petitioner's name appeared at Sl. No. 12, which clearly demonstrates that there were 11 more persons senior to him who appeared in the departmental examination and promotion could have been accorded according to the amendments made in the Rules on 30.1.1995.

4. We considered the submissions of the Learned Counsel for the parties and perused the reasons given by the Tribunal. At the outset, we hold that the Tribunal has rejected O.A No. 660/1996 by a non-speaking order; the Tribunal has not decided as to which Rule/Circular will govern the petitioner's case for promotion for the year 1994; the Tribunal also has not considered whether the amendment made in Rule on 30.1.1995 was applicable to the case of the petitioner and the Tribunal has also not considered the argument of the petitioner that none other than the petitioner passed in the departmental examination, which was the condition precedent for grant of promotion on the post of postman. In view of the above reasons, we allow the writ petition by setting aside the impugned order dated 31.10.2002 passed in O.A No. 660/1996 with the direction to the Tribunal to decide the matter afresh by a reasoned order. Both the parties are directed to appear before the Tribunal on 28.2.2012 and the Tribunal may decide the matter expeditiously and preferably within three months from 28.2.2012.

A copy of this order be sent to the Tribunal.