
(2004) 01 PAT CK 0107
In the Patna High Court
Case No : CWJC No. 678 of 2004

Union of India and Others

APPELLANT

Vs

Pawan Kumar and Others

RESPONDENT

Date of Decision : 16-01-2004

Acts Referred:

Citation : (2005) 3 PLJR 385

Hon'ble Judges : Ravi S. Dhavan, C.J.;Shashank Kr. Singh, J

Bench : Division Bench

Judgement

1. This matter has come to the court earlier on the basis of the views expressed by certain decisions of the Supreme Court which the Central Administrative Tribunal had not considered. The court remitted the matter to the Tribunal for determination afresh. The reference to the Supreme Court's decisions are made in the court's order dated 21 May, 2002 on C.W.J.C. No. 4049 of 1999; Pawan Kumar and Ors. vs. The Union of India and Ors. (Annexure-5 to the writ petition). The Tribunal considered this matter afresh in its order of 29 July, 2003 and while doing so gave the following directions:

"(i) The respondents are directed to examine the case of the applicants in the light of clause "T of Annexure A/12 & A/13 to A/14 and A/20, and the decisions passed by this Tribunal in earlier OA 562/92 and in the light of paras 16 and 18 of the decision of Hon"ble Gauhati High Court, as discussed hereinabove.

(ii) After examining the matter of the applicants, as directed hereinabove, to consider their absorptions/appointment against vacant posts on temporary basis to the post of Assistant Compilers because of the fact that the applicants have become overaged with the passage of time, and they have also lost their seniority position in the employment exchange, and in spite of necessary guidelines for absorptions of such retrenched employees, they have not been absorbed till date.

(iii) The entire exercise in this regard be done within the period of four months

from the date of receipt/production of a copy of this order."

2. The order of the Central Administrative Tribunal is well considered.

3. This court has seen the directions so issued by the Gauhati High Court also otherwise affirmed by the Supreme Court.

4. Now the Union of India has filed a writ petition that the orders of the Tribunal be set aside. Learned counsel for the Union of India failed to satisfy the court how this be done if the order of the Tribunal rests on the decision of the Supreme Court. Contrary to what has been submitted that the plea of persons like the applicant before the Gauhati High Court has been rejected; this is not so. The Gauhati High Court has put certain propositions on the basis of which matters could be resolved. The fact that Tamil Nadu Government may have framed a scheme is yet another matter. But this is no reason that if these employees are to be absorbed within this State (or any other State) and the scheme may not have been framed does not imply that the persons of such categories have been unsuited.

5. It will only be appropriate that the Union of India and the State Government, as the case may be, sit down to resolve the issue instead of polarising stands this way or that way. The matter is one for resolution not for fighting. Moreso, when a census operation is a continuing process inasmuch as a nation which has now crossed one billion mark, keeping track of democratic changes is not disconnected with the statistical data which is continuously being marshalled during and at the end of every ten years. Dismissed.