
(2015) 09 PAT CK 0024

In the Patna High Court

Case No : Letters Patent Appeal No. 1359 of 2015 in Civil Writ Jurisdiction Case No. 16308 of 2011 and Letters Patent Appeal No. 1545 of 2015 in Civil Writ Jurisdiction Case No. 18023 of 2011

Vinod Kumar Yadav and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-09-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 4 PLJR 906

Hon'ble Judges : I.A. Ansari, A.C.J; Chakradhari Sharan Singh, J

Bench : Division Bench

Advocate : Ranjeet Kumar, for the Appellant; J.S. Barnwal, GA, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Chakradhari Sharan Singh, J—Since these two appeals under Clause 10 of the Letters Patent of the High Court, preferred against different orders passed by learned single Judge, dismissing the respective writ applications filed under Article 226 of the Constitution of India, arise out of the same process of selection to the post of Constables, through Central Selection Board of Constables, Bihar, Patna, and involve common issue, they have been heard together and are being disposed of by the present common order.

2. Appellants of L.P.A. No. 1359 of 2015 are aggrieved by an order, dated 19.04.2012, passed by learned single Judge, in C.W.J.C. No. 16308 of 2011 (Vinod Kumar Yadav & Ors. Vs. State of Bihar & Ors.), dismissing the writ application on the ground that they, having obtained less than the cut-off marks fixed for their category i.e. Backward Class-Male-Home Guard, could not be considered for appointment.

3. The appellant of L.P.A. No. 1545 of 2015 is aggrieved by an order, dated 12.03.2012, passed in C.W.J.C. No. 18023 of 2011 (Dibiya Kumari Versus The

State of Bihar), whereby her writ application came to be dismissed as she was found to have obtained less marks than the cut-off marks fixed for her category i.e. "Backward Class Female Non-Home Guard".

4. Both the appeals are apparently barred by limitation, having been filed three years after passing of the orders of the Court by learned single Judge, which are under appeal.

5. The reasons, assigned by learned single Judge in the respective orders under appeal, are not in dispute. The appellants, however, have drawn our attention to the developments subsequent to passing of the orders under appeal by learned single Judge. In a batch of writ applications, arising out of the same process of selection, a learned single Judge of this Court, vide order, dated 12.08.2014, passed in C.W.J.C. No. 15487 of 2011 (Kamlesh Dikshit Raj Versus The State of Bihar and Others) and other analogous matters, commented upon the failure on the part of the Selection Board in holding the evaluation test/physical measurement, etc., as well as grant of relaxation, for the Home Guards, as prescribed in Letter No. 669 dated 04.08.2010, issued by Home (Police) Department, Government of Bihar.

6. The Court disposed of the writ applications with the following observations:-

"58. Whether the mistakes were bonafide or otherwise and whether they were committed by any individual or a group of them, are matters not for consideration by this Court, but there can be no escape from the conclusion that the Board has made a complete mess of the entire process of selection. Normally this would have led to quashing/scraping of the entire process with a direction to the Board to proceed afresh from the stage of publication of result of written examination after re-distribution of vacancies to different categories strictly in terms of Act 3 of 1992. But this can lead to complete chaos and thousand of candidates, for no fault of theirs, would come back on road. This will be inequitable and should be avoided. But wrong caused to the petitioners, and may be many more others, should also be remedied. In circumstance, this Court is of the view that the Board and the Home (Police) Department should be given one more chance to rectify their mistakes and take corrective measures, by taking into service all those candidates, who may have remained left out due to their fault, with special eye on the preferential claims of home guard candidates on the remaining vacancies of their quota. This exercise must be done meticulously at the highest level of the hierarchy to rule out any recurrence of mistakes and injustice.

59. As a result this matter is referred to the present Director General of Police, Government of Bihar. He shall get the entire exercise re-worked out, on the basis of final result of the written examination, under his direct supervision, by a team of competent officers of his office. He shall get the specific points of mistakes committed by the Board identified, with its extent and nature. He shall consider specific steps which may be required to be taken to rectify specific mistakes. He

shall get the candidates identified who may have suffered due to these mistakes by the Board, in spite of being higher in the result sheet of written examination. He shall also get the home guard candidates identified who may have been left out of consideration, in spite of directions of the Department contained in the said letter No. 699 dated 04.08.2010. He shall direct the Board to hold a process of physical evaluation test for such left out candidates, for HG candidates first and then for N-HG candidates, and recommend their names to the Department for their appointment on available vacancies or next available vacancy, as the case may be. He shall see that transparency is maintained in the matter, in as much as, any party seeking any information is supplied with full information on payment of requisite cost/fee, as may be necessary. He shall see to it that the entire exercise, as directed, is complete in all respects, within four months from the date of receipt/production of a copy of this order. It is made clear, that in case this exercise is not complete within the time, as fixed, any aggrieved party shall be at liberty to move again for scraping of the entire process of selection and for any consequential relief.

60. It is again made clear that this Court does not claim the figures in the various tables herein and in the order, and calculations made on that basis as absolutely correct. Hence the entire exercise shall be done independently and without reference to any calculation and figures in this order and shall be done only in accordance with law. Besides, the Director General of Police shall be at liberty to move this Court for any clarification/modification in the order, if he considers the same to be absolutely essential for compliance of the order or for completing the exercise. It is again made clear that the exercise, in terms of this order, should not be affected or guided by figures and calculations made in this order".

7. The Central Selection Board of Constables, thereafter, preferred appeals under Clause 10 of the Letters Patent of this Court giving rise to L.P.A. No. 16 of 2015 and other analogous cases. A Division Bench of this Court, without interfering with the order, dated 12.08.2014, passed in C.W.J.C. No. 15487 of 2011 (Kamlesh Dikshit Raj v. The State of Bihar and Others), observed, while dismissing the appeals by order, dated 01.07.2015, that any observation made by learned single Judge in his order, dated 12.08.2014, passed in the case of Kamlesh Dikshit Raj (supra) shall not be treated to have any negative reflection as regards the functioning of the Board.

8. The net effect of the order of learned single Judge passed, in the case of Kamlesh Dikshit Raj (supra) and subsequent order, dated 01.07.2015, passed by Division Bench in L.P.A. No. 16 of 2015 and other analogous cases is, that the matter stood referred to the Director General of Police, Government of Bihar. It appears that with the sole apprehension that since writ applications filed by these appellants stood dismissed, their cases would not be considered by the Director General of Police in the light of the order of this Court, dated 12.08.2014, which came to be subsequently affirmed by the Division Bench by

an order, dated 01.07.2015, the present appeals have been preferred assailing orders passed by learned single Judge in their cases in the year 2012.

9. Apart from the fact that these appeals are barred by limitation and we do not find any sufficient cause shown to us, which prevented the appellants from preferring the appeals within time, we ought to, therefore, dismiss these appeals, particularly when there is no sustainable infirmity, legal or factual, in the order passed by learned single Judge which could be pointed out on behalf of the appellants. At the same time, we are of the considered view that the appellants are under misplaced apprehension that upon the matter having been remanded to the Director General of Police, their cases would not be considered along with similarly situated persons, because of the dismissal of their individual writ applications.

10. We make it clear that if the cases of these appellants are found to be covered by the general direction of this Court as contained in the order, dated 12.08.2014, in case of Kamlesh Dikshit Raj (supra) subsequently affirmed by a Division Bench of this Court by order, dated 01.07.2015, passed in L.P.A. No. 16 of 2015 (The Chairman Central Selection Board Versus Kamlesh Dikshit Raj and Others) and other analogous cases, the cases of the appellants should not be rejected on the sole ground of dismissal of their writ applications, in the year 2012, if upon remand by the Director General of Police, the cases of the applicants for appointment to the post of Constable are considered afresh.

11. In terms of the above observations and directions, these appeals shall stand disposed of.