

(2006) 12 PAT CK 0119
In the Patna High Court
Case No : CWJC No. 8976 of 2006

Vishwanath Kumar

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 05-12-2006

Acts Referred:

Citation : (2007) 1 PLJR 350

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Aftab Alam, J.—Heard Mr. S.S. Asghar Hussain, Senior Advocate appearing for the petitioner, Mr. Kumar Alok, S.C. XIX representing the State and Mr. Sarva Deo Singh. Counsel appearing on behalf of the State Advisory Committee. The petitioner in this case is aggrieved by and seeks to challenge the decision for allocation of his service to the State of Jharkhand, following the cadre division as a result of the division of the State. The service of the petitioner was allotted to the State of Jharkhand on the basis of the Final Allocation List issued by the Advisory Committee on 4.5.2005. Before the Advisory Committee, the case of the petitioner was considered as a Steno in the Co-operative Department and as such, his allocation to the State of Jharkhand has also been made as Steno and it is on this short issue that this writ petition is fit to be allowed.

2. The admitted position is that the petitioner was appointed as an Assistant in the Co-operative Department on 26.2.1982 and he joined his post on 12.3.1982. While working as an Assistant, he was transferred from one Office to another treating him as a Steno. The petitioner challenged his transfer order as a Steno before the Secretary, Co-operative Department in Appeal Case No. 8 of 1993. While the appeal was pending, the division of the State took place which was followed by the exercise of cadre division for allocation of services of the employees to the two States. At this stage, the name of the petitioner was forwarded to the State Advisory Committee as a Steno working in the

Department. While the matter was pending before the State Advisory Committee, the petitioner's appeal before the Secretary, Co-operative Department was allowed by order, dated 18.10.2003/3.3.2004. By that order, the Secretary directed the Joint Registrar, Cooperative Societies, Darbhanga division to restore the petitioner's position as an Assistant and give him a posting on the basis of his seniority in that cadre. Apparently, the Advisory Committee was not informed about this development and consequently, the allocation of the petitioner's service to Jharkhand was made as Steno. It is seen above that though the petitioner was made a Steno on the basis of an order issued by the Joint Registrar, Co-operative Societies, that order was set aside by the Secretary, Co-operative Department and the petitioner was restored in the cadre of Assistant. It is, therefore, plain and clear that the allocation of the petitioner's service as Steno was erroneous and untenable in the eyes of law. The recommendation of the Advisory Committee and the order of the Central Government issued on that basis are accordingly quashed. The concerned respondents are directed to allow the petitioner to continue as an employee of the State of Bihar as an Assistant in the Cooperative Department till such time as a fresh order is passed in connection with his allocation of service, in accordance with law. In the result, this writ petition is allowed but with no order as to costs.