

(2005) 02 JH CK 0006

Jharkhand High Court

Case No: Writ Petition (S) No's. 4951, 5386, 5387, 5388, 6322 and 6849 of 2004

Gangadhar Bhandari and Others

APPELLANT

Vs

Government of Jharkhand and
Others

RESPONDENT

Date of Decision: Feb. 16, 2005

Acts Referred:

- Constitution of India, 1950 - Article 14, 16, 226

Citation: (2005) 2 JCR 124

Hon'ble Judges: Ramesh Kumar Merathia, J

Bench: Single Bench

Advocate: Ram Balak Mahto and Anjani Kumar Verma, for the Appellant; Anil Kumar Sinha, General, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Ramesh Kumar Merathia, J.

Heard Mr. Ram Balak Mahato, learned Senior Counsel for the petitioners and Mr. Anil Kumar Sinha, learned Advocate General, appearing for the respondents.

2. All these cases involve similar question and accordingly they are being disposed of by this common order.

3. In W.P.(S) Nos. 5386, 5387, 5388, 6849 and 6322 of 2004, Mr. Anjani Kumar Verma, learned counsel appearing for the petitioners submitted that separate Court fees for all the petitioners may be exempted as they have challenged the common decision of the District Establishment Committee dated 31.8.2004. He relied on the case of 1998 (2) BLJR 765 (Smt. Krishna Pati Devi and Ors. v. The State of Bihar and Ors.). Learned Advocate General submitted that he has got no objection if the Court fees are exempted.

In the circumstances, payment of separate sets of Court fees for all the petitioners is exempted.

4. Now merits. Though the petitioners have raised several contentions in their pleadings, Mr. R.B. Mahto confined his attack to Annexure-9, on the ground that the letters dated 3.12.1980 and 25.4.1997 (Annexures-B and B/1) were in force when the petitioners applied against the advertisement published on 21.11.2001 (Annexure-1 for preparation of pane) I and therefore, the decision dated 31.8.2004 (Annexure-9) issued during this process to the extent, it provides for holding written examination is illegal, arbitrary and bad.

5. Mr. R.B. Mahato submitted that some of the petitioners filed writ petitions in the year 1999 complaining that although they were working on daily wages for the last 10/12 years, yet their names were not being recommended for empanelment in the district panel; and that they should be regularized in Class IV post. The said writ petitions were disposed of with the liberty to the petitioners to file representation before the Deputy Commissioner, Deoghar, and he was directed to consider their claims by passing reasoned order in accordance with law. It was observed that if the petitioners have been continuously working for 10/12 years of daily wages, then the Deputy Commissioner shall consider the matter sympathetically regarding age bar and relaxation in age so far as the petitioners were concerned. The said writ petitions were disposed of on 5.8.2002, 12.9.2002 and 30.9.2002.

6. Learned Advocate General referred to the records of the said cases and submitted that the writ petitions were disposed of on the first date of hearing without counter affidavit. The petitioners suppressed the fact that on 21.11.2001, i.e. during the pendency of the said writ petitions, a notice was published in the newspaper on 21.11.2001 (Annexure-1) inviting applications for preparation of panel for appointment of Class IV employees in Deoghar District.

7. Mr. R.B. Mahto then submitted that by letter dated 5th November, 2003 (Annexure-3), the Deputy Commissioner sought clarification from the Commissioner-cum-Secretary, Personnel & Administrative Reforms and Rajbhasha Department, Government of Jharkhand, Ranchi. The Deputy Commissioner, wrote inter alia as follows :

As per the letters issued from the Personnel and Administrative Reforms Department, Government of Bihar, Patna, contained in letter No. 16441 dated 3.12.1980 and letter No. 3577 dated 25.4.1997, guide lines were issued regarding the basis and process for appointment on Class IV posts, which letters were being followed from time to time. Pursuant to the advertisement dated 21.11.2001, 11341 applications have been received. About 65 daily wagers filed writ petitions in this Court and due to non-consideration of their cases, several contempt petitions were filed. After receiving the resolution No. 5680 dated 8.10.2003 issued by the Personnel & Administrative Reforms and Rajbhasha Department, Government of

Jharkhand, Ranchi, the process of publication of panel and of appointment has been stayed. In these circumstances, guidelines were sought for from the Government of Jharkhand.

He further submitted that by letter dated 8th July, 2004 (Annexure-8), the Deputy Secretary of the concerned Department of Government of Jharkhand, in reply to another letter of the Deputy Commissioner, Deoghar, directed him to follow the procedures prescribed in the letter No. 3577 dated 25.4.1997 (Annexure-B/1) issued by the Chief Secretary of the Government of Bihar. Therefore, he submitted that the District Establishment Committee, Deoghar, could not have taken the decision on 31.8.2004 (Annexure-9) for holding written examination, during continuation of the selection process, which was not contemplated, when the advertisement for preparation of panel was issued. This amounts to applying the resolution of the State of Jharkhand dated 8.10.2003 (Annexure-A) retrospectively. He relied on [A.A. Calton Vs. Director of Education and Another](#), [N.T. Bevin Katti, etc., Vs. Karnataka public Service Commission and others](#), and [P. Mahendran and others Vs. State of Karnataka and others](#),

8. Learned Advocate General in reply submitted that in the district of Deoghar, a very large number of applications namely 11341 were received and therefore, the District Establishment Committee decided to conduct simple objective/multiple choice type written examination to ensure appointment within the time frame, while maintaining transparency. Altogether 8853 candidates were issued admit cards, out of which 6149 candidates appeared in the written examination in 117 centres under strict vigilance. The examination was objective/multiple choice type. Large scale arrangements were done. By this, evaluation was completed on the same days as contemplated in the notice (Annexure-10). Some of the petitioners appeared in the written examination but failed. Some of them boycotted it. A merit list of 310 candidates was prepared and published against the vacancy of 129 posts and in terms of the orders passed by this Court, certain candidates were given age relaxation. He further submitted that in the aforesaid two letters. Annexures-B and B/1, only certain guide lines were issued for appointment of Class III and IV employees but the process to be adopted for preparation of panel for appointment was not provided rightly, as the situation in different districts might differ. As in the present case, 11341 applications were received in Deoghar district, whereas in some other districts, the number of applications were much less. keeping in view the prevailing situation, the district administration of Deoghar has rightly decided to hold the written examination for selection of better candidates. He submitted that this decision cannot be said to be contrary to the said letters--Annexures-B and B/1 or arbitrary or discriminatory. He further submitted that it is not a case of applying the resolution of the State Government dated 8th October, 2003 (Annexure-A) retrospectively. He relied on the decision of the Supreme Court reported in [State of Sikkim Vs. Dorjee Tshering Bhutia and others](#), Lastly, he submitted that some of the petitioners have appeared in the examination and failed; some of the petitioners

boycotted the written examination. He lastly, referring to (2002) 2 SCC 615, *Suneeta Aggarwal v. State of Haryana and Ors.*, submitted that the writ Court should not exercise any discretion in their favour.

9. I find force in the submissions of the learned Advocate General. It does not appear from the impugned decision (Annexure-9) that the resolution of the State of Jharkhand (Annexure-A) was applied for holding written examination. Even assuming the same was applied, the contention of the petitioners that it could not be applied during the continuance of the process, cannot be accepted.

It is clear from the said letters dated 3.12.1980 and 25.4.1997 relied on by the petitioners (Annexures-B and B/1) that only certain guide lines were issued by the Chief Secretary, Government of Bihar and there is nothing which can restrain the district administration from conducting written examination. Thus, the impugned decision (Annexure-9) cannot be said to be contrary to any law adopted by the State of Jharkhand from the erstwhile State of Bihar. If the district administration adopts certain elimination process of selecting better candidates out of a very very large number of candidates--11341 candidates in the present case, the said decision cannot be said to be arbitrary or discriminatory, nor against the provisions of Articles 14 and 16 of the Constitution of India. All the candidates were given opportunity to appear in the examination. In view of the very large number of candidates, some method had to be evolved for completing the process within the time frame. Thus, it is clear that it is not a case of applying the resolution of the Jharkhand Government retrospectively and therefore, the judgments of [A.A. Calton Vs. Director of Education and Another](#), [P. Mahendran and others Vs. State of Karnataka and others](#), and [N.T. Bevin Katti, etc., Vs. Karnataka public Service Commission and others](#), are not applicable in the present case. The District Administration, while acting pursuant to Annexures-B and B/1, evolved the method of written examination in the prevailing situation. In my opinion, the impugned decision as contained in Annexure-9 is legal and valid and needs no interference. In the result, all the writ petitions are dismissed.