

(2008) 12 JH CK 0024
Jharkhand High Court
Case No: None

Arbind Kumar Singh

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: Dec. 19, 2008

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

D.G.R. Patnaik, J.

Petitioner in the writ application has prayed for issuance of a writ of mandamus commanding upon the respondents to appoint the petitioner as a police driver on the ground that he was selected and empanelled" in the panel prepared by the Selection Committee according to the merit and seniority of the candidates and his position in the panel was placed at Sl. No. 37 and whereas appointment has been recommended for candidates placed below the petitioner at Sl. Nos. 38 and 39 but the name of the petitioner has not been recommended for his appointment.

2. Challenging the order dated 26.06.2006 (Annexure-A) whereby the names of five candidates, excluding the petitioner, was recommended by the respondent Deputy Inspector General of Police (Provision) for their appointment as police constable drivers in the district of Palamau, the submissions of the petitioner is that the aforesaid order is totally arbitrary and discriminatory and against the prescribed rules.

3. A counter affidavit has been filed on behalf of the respondent State.

4. Heard learned Counsel for the petitioner and learned Counsel for the respondent State.

5. Learned Counsel for the petitioner argues that, the original panel referred to as Annexure-5 to the writ application, was prepared in accordance with the criteria laid

down under the Rules Though the marks allotted to the petitioner for the driving test is 41 and the same marks have also been allotted to the candidates whose names are below the petitioner at Sl. Nos. 38 and 39, but the marks which the petitioner has earned in respect of his educational qualification and the measurement of his height need also to be included and on adding such marks, the total marks earned by the petitioner would certainly be much higher than the marks earned by the candidates at Sl. Nos. 38 and 39 of the panel. Learned Counsel argues further that the criteria of giving Weightage to the candidate bearing earlier date of birth and to candidates, having a higher height measurement can be applicable only in the cases of the candidates obtaining equal marks or in case of tie between the candidates in the marks obtained by them. Such being not the situation in the petitioner's case, the comparative criteria cannot be applied to the petitioner in order to deprive him the benefit of the appointment.

6. Learned Counsel for the respondents on the other hand, submits that the entire ground of the petitioner is misconceived. Learned Counsel explains that the total marks obtained by the individual candidates in the driving test have been mentioned in the panel list and it is these marks which has been reckoned for determining the eligibility of the candidates for their appointment. Learned Counsel explains that as per the panel list (Annexure-5), the petitioner and the other two candidates whose names are mentioned at Sl. Nos. 38 and 39 of the list, have earned 41 marks equally and it was in this context that the Rule 11 of the Appointment Rules relating to appointment of constables in the Police Service, was applied and by applying the rule, preference was given to the candidates at Sl. Nos. 38 and 39. Learned Counsel points out that candidate at Sl. No. 38 though belongs to the general category, his date of birth is earlier in point of time than that of the petitioner while the candidate at Sl. No. 39 belongs to the reserved backward castes category. It is further submitted that the petitioner having not challenged the panel list (Annexure-5), he cannot now plead any irregularity or inconsistency in the preparation of the panel.

7. From the rival submissions, it appears that the petitioner has placed reliance on the panel list (Annexure-5) which was prepared by the respondents and has claimed that the panel list is presumed to have been prepared in accordance with the criteria laid down under the rules and the criteria indicated in the advertisement. Apparently, the petitioner has not disputed the correctness of the panel (Annexure-5) as have been prepared and published by the respondents.

8. From the perusal of the panel list (Annexure-5), it appears that though there are various columns mentioning the educational qualification, the measurement of height and chest but no separate marks has been mentioned in respect of the educational qualification or height and chest measurements. The final marks which have been allotted to each candidate appear in Column No. 19, denotes the total marks obtained in the driving tests. It is apparent that it is- this total marks obtained

by the candidates in the driving tests that has been considered in the preparation of the panel in order of merit. It further appears that the petitioner as well as the candidates at Sl. Nos. 38 and 39 have earned 41 marks equally and under such circumstances the guiding rule has been applied and accordingly the candidates at Sl. Nos. 38 and 39 have been given preference over the petitioner.

9. I do not find any infirmity in the impugned notification under which the petitioner's name has not been recommended. It also appears that by the impugned notification, all the existing five vacancies have been filled up.

10. In the light of above discussions, I find no merit in this writ application. Accordingly, this writ application is dismissed.