

(2008) 12 JH CK 0034

Jharkhand High Court

Case No: None

Haridwar Pandey

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: Dec. 2, 2008

Hon'ble Judges: Ajit Kumar Sinha, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Ajit Kumar Sinha, J.

The present writ petition has been preferred for grant of an appropriate writ in the nature of certiorari, order or direction to quash the order contained In memo No. 114 dated 01.11.2007 whereby the respondent No. 4 purported to have rejected the application of the petitioner for his promotion to the post of Panchayat Sewak without considering the direction as contained in order dated 30.8.3007 passed by the Hon"ble High Court in W.P.(S) No. 3684 of 2005. It has further prayed for issuance of an appropriate writ in the nature of mandamus commanding upon the respondents to promote the petitioner on the post of Panchayat Sewak from the date of eligibility with all consequential benefits.

2. The facts, in brief, as stated by the petitioner are set out as under:

The petitioner was appointed upon selection on 6.7.1983 to the post of Dalpatil by the Executive Committee of Achlanawadlh Gram Panchayat. The appointment of the petitioner in the post of Palpal" was confirmed by the district level committee on 20.5.1984 and the petitioner was sent for training for the post of Panchayat Sewak on 21.10.1987 which he completed on 21.12.1987 and memo No. 24 dated 9.3.2000 was issued with regard to the seniority list of the working Dalpaties of different panchayats in the district of Garhwa and the name of the petitioner figured at serial

No. 9 of the said seniority list along with his details. The case of the petitioner was that the post of Panchayat Sewak were formed in the district of Garhwa but the same was not being filled up even though they were qualified.

3. This led to filing of a writ petition (S) No. 5307 of 2001 by the petitioner and one another and the same was disposed of vide an order dated 16.10.2001 with a direction upon respondent No. 3 to finalise the matter of selection within four months. The petitioner, on non-compliance of the aforesaid direction filed a Contempt Petition (C) No. 356 of 2002 which was disposed of by an order dated 15.7.2002 with a direction to comply the aforesaid order passed by the Hon"ble High Court. The petitioner further submits that the Secretary, Rural Development Department issued direction upon the Deputy Commissioner and further by an order dated 18.8.2003 issued vide memo No. 967 the respondent No. 2 directed all the authorities to comply with the direction of the Hon"ble High Court in matters of appointment to the post of Panchayat Sewak. Accordingly the case of the petitioner along with others were sent "for consideration for condonation of their age limit vide letter No. 244 dated 13.12.2003 and finally vide order contained in memo No. 342 dated 26.3.2004 the petitioner case for relaxation was declined. The petitioner, being aggrieved filed a Writ Petition (S) No. 3684 of 2005 challenging the aforesaid letter No. 342 dated 26.3.2004. The Hon"ble High Court vide its order dated 13.8.2007 disposed of the writ petition directing respondent No. 4 to pass a reasoned order within a period of six weeks from the date of receipt/production of such representation.

4. According to the respondents, the petitioner could not be promoted because he has crossed the age bar much before the actual consideration.

5. I have considered the pleadings and heard the arguments of both sides. The moot question for consideration is as to whether the petitioner was eligible and as to whether having completed 45 years of age on 15.1.2000 itself could he get the benefit of age relaxation. It appears that pursuant to the aforesaid direction issued in W.P.(S) No. 3684 of 2005 dated 30.8.2007. The Deputy Commissioner, Garhwa vide a detailed speaking impugned order dated 26.10.2007 rejected the representation on the ground that the maximum age limit was 45 years on 15.1.2000 and the petitioner"s date of birth was 15.1.1955 and thus he had attained 45 years of age on 15.1.2000 itself and accordingly he was held not to be eligible to be promoted to the post of Panchayat Sewak from the post of Dalpati in accordance with the rules. It is the specific case of the respondent, as indicated in the supplementary counter affidavit that as per letter No. 603 dated 6.2.1993 there was provision of relaxation of age but the same has lost its force after Panchayat Sachiv (Niyukti Seva Sart and Kartvya) Niyamawali, 2000 which came into effect/force on 17.10.2003 and as such the petitioner was not eligible for the post of Panchayat Sewak.

6. Considering the aforesaid facts and circumstances of the case, one thing becomes very clear that the petitioner, in any case, was not entitled Or eligible to be

promoted to Panchayat Sewak from Dalpati because of the age bar even as per letter No. 603 dated 6.2.1993 after coming into force of the Panchayat Sachiv (Niyukti Seva Sart and Kartavaya) Niyamawali, 2002 which came into effect on 17.10.2003 wherein the maximum age limit for promotion to the post of Panchayat Sewak is 35 years with relaxation of 5 years.

7. Considering the aforesaid facts and circumstances of the case, even as per the old circular the maximum age limit was 45 years which the petitioner had completed on 15.1.2000 itself and there was no provision of relaxation in that and as per the rules he was rightly declared to be ineligible to be promoted from Dalpati to Panchayat Sewak.

Thus, this writ petition, being devoid of any merit, is dismissed without any order as to costs.