
(2006) 02 JH CK 0019

Jharkhand High Court

Case No: Writ Petition (S) No. 5840 of 2005

Nand Kumar Ram and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Feb. 1, 2006

Citation: (2006) 2 JCR 65

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Advocate: Ajit Kumar, K.K. Singh, for the Appellant; M.K. Laik and A. Allam, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

M.Y. Eqbal, J.

The learned counsel for the petitioners is permitted to add State Advisory Committee and Central Government as party respondent.

2. Heard Mr. Ajit Kumar, learned counsel appearing for the petitioner, Mr. M.K. Laik, Sr. Standing Counsel for the State of Jharkhand and learned counsel for the State of Bihar.

3. In this writ petition, the petitioners who are the Assistant Engineers, seek a direction upon the respondents particularly the respondent No. 2, the Commissioner-cum-Secretary, Road Construction Department, Ranchi to clear the back log promotional vacancies of reserved category in the cadre of Executive Engineers (belonging to the SC/ST candidates) by way of giving regular promotion to the Assistant Engineers who are working in the Road Construction Department. Further a direction has been sought directing the respondent No. 6, the Secretary, Road Construction Department, Bihar to forward the backlog vacancies of the post of the Executive Engineers available to the State of Jharkhand, after the bifurcation of the erstwhile State of Bihar and lastly to direct the respondents not to adopt ad-hocism by allowing the Assistant Engineers to occupy the higher post as incharge

of the Executive Engineers.

4. In the counter affidavit, respondent State of Jharkhand stated that the Government of Bihar has not sent backlog vacancies even the cadre of Assistant Engineers have not been fixed and therefore it is not possible to promote any Assistant Engineer on the post of regular Executive Engineer. It is contended that since the regular promotion is a time consumed process, ad-hoc arrangement has been made by promoting the Assistant Engineers as incharge of the Executive Engineer. It is further contended that several requests and reminders have been sent by the Road Construction Department, Government of Jharkhand to its counter part in the State of Bihar for sending backlog vacancies but no report has been sent to that effect in the office of the concerned respondent, however, it is stated that the cadre of Assistant Engineer has not been finalized so far.

5. No counter affidavit has been filed by the State of Bihar but the learned counsel appearing for the State of Bihar had produced the statement of facts received by him for filling counter affidavit. The stand of respondent of State of Bihar as per the instructions reads as follows :-

It is being submitted that petitioner Nos. 1, 2 and 3 are Assistant Engineers belonging to S.C. category and are presently posted in Jharkhand State. The final cadre division of Assistant Engineers has not been completed yet by State Advisory Committee and Central Government. Where as final cadre division of Executive Engineers between two States (Bihar and Jharkhand) has been completed by State Advisory Committee and Central Government. The total sanctioned posts of Executive Engineers and also total working E.E.'s strength has been, finally bifurcated by the State Advisory Committee and Central Government RCD Bihar has relieved the concerned Executive Engineers (who have been allotted Jharkhand Cadre finally). And same way RCD Jharkhand, Ranchi also relieved the concerned Executive Engineers (who have allotted Bihar cadre finally). In this way each State has got total sanctioned post and working Executive Engineers (against the sanctioned post) and also each State has got the relevant vacancy of E.E. by considering total sanctioned post and working E.E. in their State.

The Personnel and Administrative Reforms Department of Bihar, (while clearing roster for Executive Engineers) has given backlog of SC/ST vacancies to be filled up after considering the existing reservation policy in Bihar State only. The Personnel and Administrative Reforms Department of Bihar has given backlog of SC/ST for Executive Engineers in divided Bihar State only. Now the final cadre division of Executive Engineer has been completed. The Jharkhand State clearly knows the existing vacancies of Executive Engineers in its State. The all three petitioners are Assistant Engineers and are working in Jharkhand State. The final cadre as Assistant Engineers has not been completed by the State Advisory Committee. It is also being submitted that no juniors to the petitioners are working as Executive Engineer in divided Bihar State.

The Hon"ble High Court, Patna through its interim order dated 27.4.05 in CWJC No. 2745/05 Narendra Singh and Ors. v. State of Bihar and Ors., has kept the meeting of concerned D.P.C (to fill up the backlog of SC/ST for Executive Engineers) in abeyance till further order.

6. It is, therefore, clear that the final cadre division of Assistant Engineers has not been completed by the State Advisory Committee and the Central Government. Whereas the final cadre division of the Executive Engineers between the two States have been completed by the State Advisory Committee and Central Government . The total sanctioned posts of Executive Engineers and also total working E.E.'s strength has been finally bifurcated by the State Advisory Committee and Central Government. It is also clear that the Personnel and Administrative Reforms Department, Government of Bihar has given backlog of SC/ST vacancies to be filled up after considering the existing reservation policy.

7. In the facts and circumstances, particularly, in order to avoid the mischief that is being done by giving ad hoc promotion to some of the Assistant Engineers to the post of Executive Engineer, I issue the following directions :-

(1) The State Advisory Committee and Central Government shall complete the cadre division of the Assistant Engineers within two months from today.

(2) The concerned department of the State of Bihar immediately send backlog vacancies to the concerned department of the State of Jharkhand and this process shall be completed within two weeks from the date of final, cadre division as aforesaid.

(3) The State of Jharkhand, thereafter, takes up the process of promotions from Assistant Engineers to Executive Engineers and the same shall be completed within three months there after.

8. With the aforesaid observations and directions, this writ petition is disposed of.

9. Let copies of this order be handed over to the learned counsel appearing for the State of Bihar as also the State of Jharkhand.