

Upendra Kumar Vs. Forest

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Court : Jharkhand

Decided On : Nov-06-2017

Appellant : Upendra Kumar

Respondent : Forest

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 6007 of 2017
Upendra Kumar Petitioner Versus The State of Jharkhand & Ors. Respondents
----- CORAM: HON'BLE MR. JUSTICE DR. S. N. PATHAK ----- For Petitioner :
Mr. Sanjay Kr. Pandey-2, Advocate For Respondents : Mr. Suman Kr. Ghosh,
Advocate Mr. Tejo Mistry, Advocate 02/ 06.11.2017 The petitioner has approached
this Court with a prayer for appointment to the post of Forest Guard in view of
Jharkhand Forest Guard, Competitive Exam, 2014. The factual exposition as has
been delineated in the writ petitioner is that the petitioner passed his matriculation
examination in the year 2003 from Jharkhand Secondary Examination Board,
Ranchi and further passed Sahityabhushan Examination (Equivalent to
intermediate) in the year 2011 from Hindi Vidyapith, Deoghar, Jharkhand. It is
further stated that in view of Advertisement No. 03/2014, the petitioner applied on
18.11.2014 for the district of Garhwa. As per the advertisement, total 2204
vacancies of Forest Guards were published for all the districts of Jharkhand and in
the district of Garhwa a total 137 vacancies were shown, out of which 33 post
were reserved for Scheduled Caste category under which category, the petitioner
belongs. Thereafter, the petitioner appeared in preliminary test on 24.05.2015 and

after getting qualified, he appeared in main examination which was held on 15.05.2016, 16.05.2016 and further physical test held on 16.12.2016. It is specific case of the petitioner that thereafter, 166 successful candidates from Garhwa District were called for scrutiny of their certificates in which the name of the petitioner also figured and subsequently, final list of selected candidates were published in which the name of the petitioner did not find place. Aggrieved by that the petitioner has compelled to knock the door of this Court. Mr. Sanjay Kr. Pandey, learned counsel appearing on behalf of the petitioner, submits that petitioner is entitled for appointment to the post of Forest Guard as he was duly successful in all the events. Learned counsel for the petitioner further submits that in garb of the educational certificate, which was duly valid for the purpose of appointment, the respondents cannot deny the appointment on the ground that the said certificate is not valid in view of the Govt. Notification dated 26.02.2015 issued vide Memo No. 1863 by Secretary, Department of Personnel and Administrative Reforms, Ranchi. Learned counsel for the petitioner further submits that any notification cannot be given retrospective effect, the certificate of the petitioner was obtained in the year, 2011 itself and in view of the said notification, it cannot be said to be invalid. The Notification comes into play with prospective effects and cannot be given retrospective effect and as such, in view of the matter, the respondents may be directed to consider the case of the petitioner for appointment to the post of Forest Guard, considering the said certificate to be valid for the purpose of appointment. Learned counsel further submits that in midst of the selection process taking into consideration of the said circular, amounts to change the Rules of the game and as such, in view of the settled principles of law that no such circular can be taken into consideration when the game is over or in the midst of any selection process. Mr. Suman Kr. Ghosh, learned counsel appearing on behalf of the respondents vehemently opposes the contention advanced by the learned counsel for the petitioner and submits that in no way, the case of the petitioner can be considered for appointment to the post of Forest Guard. Learned counsel further argues that the circular came into play in the year 2015 itself (26.02.2015), the results were declared in the year, 2016 and as such, the Circular of the State Government was fully valid and in view of that Circular, the order of the respondents is fully justified. Learned counsel also submits that

the issue regarding the certificates issued by the Hindi Vidyapith, Deoghar has been taken into consideration in several cases and the Court was of the clear view that the said certificate is not valid for the purpose of employment and cannot be considered as equivalent to matric, intermediate or B.A. Be that as it may, having gone through the rival submissions of the parties, this Court is of the considered view that no interference is required in the writ petition. Once the Government has taken a decision, this Court under Article 226 of the Constitution of India cannot interfere into the policy decision of the State. It is the policy decision of the State, which has come by way of Circular, the State is of the clear view that any certificate issued by the Hindi Vidyapith, Deoghar cannot be considered for the purpose of employment with a retrospective dated i.e. 26.06.2014. The contention of the learned counsel for the petitioner that in the midst of the recruitment process, the circular has been issued, is misconceived, the said contention of the learned counsel for the petitioner is not acceptable to this Court. The issue has already been set at rest by the Hon'ble Apex Court in case of N. T. Devin Katti & Ors. Vs. Karnataka Public Service Commission reported in (1990) 3 SCC157 in which it was observed that the service rules normally operate prospectively unless indicated to the contrary by express language or by necessary implication. In the instant case, the Government has specifically made it operational with effect from retrospective date i.e.. 26.06.2014 and as such, no interference is required. Further, the learned counsel for the petitioner has not challenged the validity of the notification dated 26.02.2015 issued by the Department of Personnel & Administrative Reforms and hence, no relief can be granted to the petitioner. Moreover, the cut-off date for determination of educational qualification etc. as per the advertisement was 22.12.2014 whereas, the certificates issued by the Hindi Vidhyapith, Deoghar has been made invalid w.e.f. 26.06.2014 and as such, there is no infirmity or illegality in non- consideration of the case of the petitioner for appointment. Even the contention of the learned counsel for the petitioner that the circular has been considered in the midst of the recruitment process and as such it may be considered as change of rule of game, the said contention is also not acceptable by this Court. The issue regarding validity of certificates issued by Hindi Vidyapith Deoghar fell for consideration before Hon'ble Patna High Court in case of Reeta Shrivastava Vs. State of Bihar & Ors. reported in 2012 (3) PLJR,

353 which has been confirmed by the Hon'ble Division Bench of the Hon'ble Patna High Court in LPA No. 953/2012. Further, a co-ordinate Bench of this Court has taken similar view in the case of Smt. Kiran Kumari & Ors. Vs. State of Jharkhand & Ors. by holding that qualification of Sahityalankar cannot be treated as equivalent to graduation or Bachelor in Arts Degree for the purposes claiming any benefit for promotion. As a cumulative effect of the aforesaid Rules, guidelines and legal proposition, I am not inclined to interfere in the writ petition. No interference is warranted, accordingly, the writ petition merits dismissal. (Dr. S.N. Pathak, J.)
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