

Pramod Kumar Vs. the State of Bihar and ors.

Pramod Kumar Vs. the State of Bihar and ors.

SooperKanoon Citation : sooperkanoon.com/124647

Court : Patna

Decided On : Dec-08-2006

Judge : V.N. Sinha, J.

Appellant : Pramod Kumar

Respondent : The State of Bihar and ors.

Prior history : V.N. Sinha, J. 1. Heard learned Counsel for the petitioner and the State. 2. Petitioner is a Class-III employee, serving in the Department of Road Construction, Government of Bihar. He has filed C.W.J.C. No. 3716 of 2005 praying inter alia to direct the respondent authorities to take steps for holding Bihar Administrative Service 2nd Limited Competitive Examination at the earliest. During pendency of the said writ petition, he filed C.W.J.C. No. 9181 of 2005 assailing the advertisement issued

Judgement :

V.N. Sinha, J.

1. Heard learned Counsel for the petitioner and the State.

2. Petitioner is a Class-III employee, serving in the Department of Road Construction, Government of Bihar. He has filed C.W.J.C. No. 3716 of 2005 praying inter alia to direct the respondent authorities to take steps for holding Bihar Administrative Service 2nd Limited Competitive Examination at the earliest. During

pendency of the said writ petition, he filed C.W.J.C. No. 9181 of 2005 assailing the advertisement issued for holding the Bihar Administrative Service 2nd, 3rd, 4th, 5th and 6th Limited Competitive Examination, 2005, Annexure-4 as thereunder cut off date for 42nd, 43rd, 44th, 45th and 46th batches have been fixed as 1.8.1996, 1.8.1997, 1.8.1998, 1.8.1999 and 1.8.2000, which has been further modified under corrigendum dated 10.7.2005, Annexure-5 and thereunder the following cut off dates have been fixed:

42nd Batch (2nd Limited Examination) 01.08.1998.

43rd Batch (3rd Limited Examination) 01.08.1998.

44th Batch (4th Limited Examination) 01.08.1999.

45th Batch (5th Limited Examination) 01.08.1999.

46th Batch (6th Limited Examination) 01.08.2000.

3. Fixation of the aforesaid cut off dates have been assailed by the learned Counsel for the petitioner as violative of Articles 14 and 16 of the Constitution of India, as according to him, all those Class-III employees, who have become eligible until the 1st August of the year in which advertisement has been issued, should be allowed to appear in the examination as thereby the examining body will have a larger choice amongst the eligible candidates to select and thereby no eligible person will be deprived of his chance to appear in the said examination. It is further contended on behalf of the petitioner that fixation of the same cut off date for 2nd, 3rd and 4th, 5th limited examination, as has been done under the corrigendum, Annexure-5, is wholly contrary to the provisions contained in Bihar Administrative Service (Appointment through Limited Competitive Examination) Rules, 1991 (hereinafter referred to as the 'Rules'), under which the recruitment is being made. In this connection, he has further placed reliance on the judgment of this Court dated 22nd July, 2003 passed in C.W.J.C. No. 5207 of 2003 and 5405 of 2003, Pramod Kumar and Rajiv Ranjan Verma v. The State of Bihar and Ors. Annexure-3, perusal whereof indicates that thereunder also similar grievance was raised which was found to be reasonable and well founded by this Court.

4. Counsel for the State has opposed the prayer as, according to him, the 1st Limited Competitive Examination was held in the year 2003 for batches 35 to 41 and for the said examination cut off dates were fixed as 1.8.1986, 1.8.1988, 1.8.1990, 1.8.1992, 1.8.1994, 1.8.1996 and 1.8.1998 and the present limited examination is being held for the batches 42nd to 46th and, accordingly, the cut off date has been provided in the corrigendum keeping in view the provisions of Rule 5 of the Rules.

5. Reliance placed by the State respondent on the provisions contained in Rule 5 of the Rules is misplaced as perusal of the Rules does not indicate that thereunder authorities are permitted to hold one examination for several batches fixing one cut off date for two or more examinations. When the Rules were framed in the year 1991, special provision was made in Rule 12 for those who became eligible for being considered between 1982-91 but were not considered. Similarly, Rule 12 was again amended vide notification dated 27.6.2002, Annexure-A to the counter affidavit of B.P.S.C. in C.W.J.C. No. 9181 of 2005 so as to enable the candidates, who became eligible in between 1982-1998 to appear in the limited examination for being considered for appointment in administrative service. In the back ground above, I am unable to appreciate the submission of learned Counsel for the State for the reason that Article 16 of the Constitution of India mandates that those who have become eligible on the date of advertisement, should be allowed to appear in the examination and contrary to the mandate of Article 16 of the Constitution of India, the authorities of the State Government have advised the Commission to fix a cut off date even restraining the eligible candidates on the date of advertisement from appearing in the examination.

6. In view of the discussion above, I direct the State respondents as also the Bihar Public Service Commission to issue a corrigendum and permit all those who have become eligible on the date of advertisement to appear in the 2nd to 6th Limited Competitive Examination. This matter has remained pending in this Court for more than a year and the Limited Examination has not been held so far on account of pendency of this case. In the circumstances, I direct that corrigendum, in compliance of this order be issued at the earliest, in any case within a period of one month from today and the examination should be conducted within three

months thereafter.

7. These writ applications are, accordingly, disposed of, No cost.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com