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Court : Jharkhand

Decided On : Feb-06-2008

Reported in : [2008(2)JCR655(Jhr)]

Judge : N.N. Tiwari, J.

Appellant : Sanjay Kumar and ors.

Respondent : State of Jharkhand and ors.

Judgement :
ORDER

N.N. Tiwari, J.

1. In both the writ petitions, common question arises out of the same factual foundation. They have been heard together with the consent of the parties and are being disposed of by this common order.

2. In both the writ petitions, the petitioners have prayed for a direction on the respondents to appoint them on the posts of Junior Engineer in any of the departments.namely, Drinking Water and Sanitation Department, Road Construction Department or Water Resources Department on the basis of their selection and final recommendation by Jharkhand Public Service Commission (J.P.S.C. for short) in Junior Engineer (Civil) Examination, 2005-06. They have also prayed for quashing the notifications issued by the respondents-Road

Construction Department, Water Resources Department as also Drinking Water and Sanitation Department dated 22.7.2007, 18.8.2007 and 2.9.2007 respectively in the daily newspaper 'Prabhat Khabar' and for issuance of appropriate and suitable directions commanding upon the respondent-J.P.S.C. to produce before this Court the list of all the recommended candidates, which includes the petitioners and in case they choose to eliminate certain number of candidates out of the list, to direct them to eliminate the candidates from the bottom of the merit list.

3. Learned Counsel for the petitioners, however, confine the writ petition only to the first prayer, seeking direction on the respondents to appoint them on the post of Junior Engineer, as aforesaid.

4. The respondent-J.P.S.C. vide Advertisement No. 12 of 2002-03 advertised 29 number of vacancies of Junior Engineer (Civil) to be filled up in Public Health and Engineering Department (now known as Drinking Water and Sanitation Department). The petitioners applied for the said post in appropriate Form. However, the selection was not initiated for a long time. After lapse of about two years, the respondent-J.P.S.C. published another Advertisement No. 8/05 in which 133 number of posts of Junior Engineer (Civil) was advertised for appointment of 67 numbers of Junior Engineer (Civil) in the Road Construction Department. Out of the total vacancies, the posts were distributed amongst three departments vide a corrigendum published by J.P.S.C. in daily newspaper 'PRABHAT KHABAR' on 16.12.2005. 75 vacancies received by J.P.S.C. from Drinking Water and Sanitation Department were also declared to be added with Advertisement No. 8/05. Pursuant to the clubbing of two aforesaid advertisement, the respondent-J.P.S.C. also published the common syllabus of written examination in local newspaper in its edition dated 30.12.2005. The petitioners were issued individual Admit Cards for the said examination and they appeared in the said examination. J.P.S.C. declared the result in which the petitioners were declared successful in the written examination. Thereafter, another corrigendum was published in the daily newspaper 'PRABHAT KHABAR' in its edition dated 27.4.2007 showing the number of vacancies of the Junior Engineer (Civil) in Drinking Water & Sanitation Department. Since the petitioners were successful in the written examination, they

were issued interview letter. They appeared before the Interview Board. After proper scrutiny of the candidates, who appeared in the written examination as well as in interview, a final list was prepared recommending exact number of vacancies in each department. The names of the petitioners were recommended in the final list of Drinking Water & Sanitation Department. It has been stated that as per the vacancy, Road Construction Department called all 67 recommended candidates and the Water Resources Department has also called all the recommended candidates, but the Drinking Water and Sanitation Department did not call all the recommended candidates. Though the name of the petitioners were recommended to that department, the appointment letters were not issued to them. The petitioners thereafter approached the department and requested them to issue appointment letters. However, their request has not been considered and the appointment letters have not been issued to them. It has been stated that the candidates, who were below in the list but whose names were recommended to different department, have been appointed and the petitioners have been still waiting.

5. Both the writ petitions have been contested by the respondent-State as well as J.P.S.C. A common stand has been taken by the respondents stating that the writ petitions are not maintainable and are liable to be dismissed. It has been, however, admitted that the petitioners were declared successful in the written examination and they were finally selected after interview. After selection, a list was prepared and out of that, names were recommended for appointment to different departments in order of merit as per the available vacancies. The J.P.S.C. has further instructed to consider the recommended candidates also for the vacancies, which will be falling within one year since the date of recommendation by J.P.S.C. The respondents have taken stand that the appointments have been made as per the list and in order of merit, in accordance with the vacancy in the respective departments. Since the vacancies were lesser than the names recommended, after the appointment of the required number of candidates against the vacant posts, the list has been retained and kept open for appointment against future vacancy within a period of one year i. e. till the life of the panel.

6. I have heard learned Counsel for the parties and considered the facts and materials, brought on record. The petitioners though have prayed for a direction on the respondents to appoint on the posts of Junior Engineer (Civil), there is nothing on the record to show that any candidate, who is below in the merit list, has been appointed. Appointment of the persons whose names were above the petitioners in the select list does not give any right to the petitioners to claim their appointments as well, particularly when there is no admitted vacancies. The respondents have come with the clear stand that the excess number of candidates have been recommended, candidates were appointed against the existing vacancies in order of merit and further appointments will be made as and when there will be future vacancy within a period of one year since the date of recommendation. The petitioners as well as respondents have informed that still the penal is alive. The petitioners have further stated that there are vacancies in the department but appointment letters have not been issued, which, however, has been denied and disputed by the respondents.

7. In view of the submissions made by learned Counsel for the parties and in the circumstances of the case, both the writ petitions are disposed of giving liberty to the petitioners to approach the concerned authority claiming their appointment, if there is vacancy in the department. As the respondents have clearly taken stand that further appointment will be made as and when vacancies are available, no further direction is required to be issued by this Court to that regard. However, if the petitioners approach and satisfy the respondents showing vacancies on the basis of the authentic document, their claim shall be considered and appropriate order shall be passed in accordance with law.

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