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Court : Jharkhand

Decided On : Mar-23-2006

Reported in : [2006(2)JCR398(Jhr)]

Judge : M.Y. Eqbal, J.

Acts : Administrative Service (Appointment by limited Competitive Examination) Rules, 1991 - Rule 5

Appeal No. : W.P. (S) No. 5496 of 2005

Appellant : Mukul Kumar and ors.

Respondent : State of Jharkhand and ors.

Advocate for Def. : H.K. Singh, S.C. II and; S. Piprawall, Advs.

Advocate for Pet/Ap. : R. Krishna and; S. Ranjan, Advs.

Disposition : Appeal allowed

Judgement :

M.Y. Eqbal, J.

1. In this writ application, the petitioners have prayed for quashing the advertisement No. 5 of 2005 published in daily newspaper 'Hindustan' on 6.9.2005 inviting applications for appointment on the post of Deputy Collector to be filled up

by internal candidates who are working in class III post in the State of Jharkhand.

2. Petitioners case is that the Bihar State Service Commission, in the year 2003, issued an advertisement No. 4 of 2003 for recruitment/appointment of internal candidates against the post of Deputy Collector and in the said advertisement, posts were mentioned batch wise and criteria was also laid down on the respective dates for which vacancies had accrued. After creation of State of Jharkhand, the respondents have advertised, for the first time, by advertisement No. 5 of 2005 in which batch wise vacancies has not been mentioned, rather, total post has been shown as fifty and the date of eligibility stands fixed as on 1.8.2005. Contention of the petitioners, therefore, is that the said advertisement No. 5 of 2005 is contrary to the Administrative Service (Appointment by limited Competitive Examination) Rules, 1991.

3. The case of the respondents-State, in the counter-affidavit, is that after the creation of the State of Jharkhand, the cadre of Deputy Collector was finally allocated in the month of May 2003. After final allocation of cadre and the determination of gradation, at the fag end of 2003, the case matured for initiation of recruitment process of Deputy Collector by limited combined competitive examination in terms of 1991 rules. The said rule does not contain any provision for holding limited examination every year. Respondents' case is that the eligibility criteria fixed under Rule 5 (Ka) (ii) has been amended by the Jharkhand Govt. by notification dated 29.11.2004 and as per the said amendment, five years continuous service in class III post is required for being eligible to appear in the examination.

4. The undisputed facts are that the State of Jharkhand came into existence in November, 2000 and the cadre of the Deputy Collector has been finally allocated at the end of 2003. The Bihar Administrative Service (Appointment by Limited Competitive Examination) Rules, 1991 (the said rule of 1991) does not contain any provision to the effect that limited examination will be conducted every year. According to the rule 'in a year' includes the vacancies which have not been filled up in the previous year. It is the specific case of the respondents that after creation of the State of Jharkhand examination of first batch is going to be held for the

vacancies including the previous year also which have not been filled up. Rule 5 (Ka) (ii) has also been amended by the Jharkhand Government by notification No. 6196 dated 29.11.2004 by which five years continuous service has been fixed as one of the criterias for appearing in the examination.

5. Taking into consideration all the facts, particularly the fact that final allocation of cadre was made in the last part of 2003 and after determination of gradation recruitment process was initiated and requisition was sent to the Jharkhand Public Service Commission of filling up the post of Deputy Collector by holding limited examination from the eligible class III employees, I do not find any merit in this writ application. Hence this writ petition is dismissed.

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