

Janoon Sangi Vs. State of Bihar and ors.

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Court : Jharkhand

Decided On : Apr-11-2002

Reported in : 2002(50)BLJR1001

Judge : R.N. Prasad, J.

Acts : Service Law; [Bihar Reorganisation Act, 2000](#) - Sections 71; [Constitution of India](#) - Article 315(2)

Appeal No. : C.W.J.C. No. 3664 of 2002

Appellant : Janoon Sangi

Respondent : State of Bihar and ors.

Judgement :

ORDER

R.N. Prasad, J.

1. The petitioner has filed the writ petition for direction to the respondents to appoint her on the post of Veterinary Officer on the basis of recommendation of Bihar Public Service Commission (B.P.S.C.).

2. The relevant facts of the case are that an advertisement No. 88/98 was published on 21.6.1998 inviting applications for appointment on 81 different posts of Veterinary Services Class II Service. The petitioner applied for appointment.

After observing process of selection out of 81 vacancies only 28 candidates were selected for appointment. Selected candidates were called for to produce documents for verification. They appeared and documents were verified. Medical test was also held and the petitioner was found fit for appointment. However, no letter of appointment was issued and as such writ petition has been filed for issue of direction as indicated above.

3. A counter-affidavit has been filed on behalf of respondents wherein the fact that the petitioner was selected for appointment on the post of Veterinary Officer has not been disputed. However, it has been stated that 12 persons have already been appointed vide notification dated 3.10.2000. While the process for appointment of 16 persons including the petitioner was in progress the [Bihar Reorganisation Act, 2000](#) came into force and Jharkhand State was created and as such the State Government has decided to send back the name of 16 recommended candidates including petitioner to the B.P.S.C. and to send revised requisition after recalculation of the vacancies after creation of Jharkhand State and accordingly names of 16 candidates including petitioner recommended for appointment by B.P.S.C. on the basis of previous requisition has already been sent to the B.P.S.C. vide letter dated 10.7.2001 issued under the signature of Deputy Secretary, Department of Animal Husbandry and Fisheries. Government of Bihar, steps have also been taken for sending revised requisition to the B.P.S.C. after recalculation. It has also been stated that out of 16 selected candidates including petitioner 15 candidates except the petitioner had filed C.W.J.C. No. 9144/2001 for redressal of their grievance and the said writ petition has been admitted on 13.8.2001.

4. Learned counsel for the petitioner submitted that there may be justification for recalculating the vacancy after division of the State but there cannot be any justification for sending fresh requisition to the B.P.S.C. as out of 81 vacancies only 28 were recommended by the B.P.S.C. and two third vacancies being earmarked for the State of Bihar and as such 54 vacancies are clearly available in the State of Bihar against which the petitioner can be appointed. On the other hand, learned counsel for the respondents stated that after reorganisation of the State under [Bihar Reorganisation Act, 2000](#) recommendation made by B.P.S.C. became infructuous. Therefore, there is no error in taking decision to make a fresh

selection on the basis of fresh requisition after calculating the vacancies.

5. It is well known that recommendee has no legal right to be appointed on the post but in such a situation the State is required to give reasonable reason for not appointing the recommended candidates. In view of Section 71 of the [Bihar Reorganisation Act, 2000](#) read with Article 315(2) of the [Constitution of India](#) recommendation made by B.P.S.C. would not be binding on the State of Jharkhand but it does not mean that recommendation would not be given effect and it shall be made infructuous necessitating de novo selection. The Government of Bihar has allocated two-third post in the State of Bihar other than the post of Forest Department. Therefore, I find substance in the submission of learned counsel for the petitioner that out of 81 vacancies 54 vacancies advertised by advertisement No. 88/98 were meant for the State of Bihar. However, the Court accepts the stand of the respondent with respect to recalculation but that cannot be a ground for de novo selection on the basis of fresh requisition. Therefore, stand of the respondents, in my opinion, is not reasonable. In similar situation a Bench of this Court in the case of Subhas Chandra Yadav and Ors. v. State of Bihar and Ors., C.W.J.C. No. 11491/2001 disposed of on 8.10.2001 has directed the respondents to consider the recommendation of B.P.S.C. and appoint recommended persons against available vacancies after identifying and calculating the vacancies. In the circumstances, I feel no hesitation in issuing writ directing the respondents to consider the recommendation of B.P.S.C. and appoint the petitioner against available vacancies after calculating the vacancies.

6. The pendency of any similar application before this Court, in my view, would not stand in the way in disposing of the writ petition of the petitioner. Therefore, writ petition is disposed of. The respondents are directed to consider the recommendation of B.P.S.C. and appoint the petitioner against the available vacancies after identifying the vacancies within a period of two months from the date of receipt/production of copy of this order. Before parting with the case it is made clear that recommendation made by B.P.S.C. will not be treated as infructuous after expiry of one year in view of the fact that on account of inaction on the part of respondents and for no fault of the petitioner appointment letter could not be issued in spite of recommendation and selection.

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