

Rajesh Kumar Vs. The State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Mar-15-2016

Appellant : Rajesh Kumar

Respondent : The State of Jharkhand and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI L.P.A. No. 486 of 2015
Rajesh Kumar son of late Kedar Nath Singh, resident of village Dharmpur, PO-Rasulpur, PS-Doriganj, Dist. Chhapra(Saran), Bihar. Appellant -Versus- 1. The State of Jharkhand 2. The Director General-cum-Inspector General of Police, Jharkhand, Ranch.

3. The Deputy Inspector General of Police, Hazaribagh.

4. The Superintendent of Police, Hazaribagh 5. The Chairman, Selection Board-cum- Superintendent of Police, Koderma. Respondents CORAM : HONBLE MR.JUSTICE VIRENDER SINGH, CHIEF JUSTICE HONBLE MR. JUSTICE SHREE CHANDRASHEKHAR .. For the Appellant : Dr.S.N.Pathak,Sr.Advocate, Diwakar Upadhyay & Rakesh Kumar Roy, Advocates For the Respondents: Mr.Anil Kumar, JC to Advocate General . Order no.03/ Dated 15th March, 2016 Per Virender Singh, C.J.

1. Aggrieved of order dated 31.7.2015 passed in W.P.(S) No.6276 of 2009 whereby, challenge to the order of cancellation of the appointment of writ petitioner

has been rejected, the instant Letters Patent Appeal has been filed.

2. Heard.

3. Dr. S.N.Pathak, learned senior counsel, referring the decision of this Court rendered in Krishna Jee and others Vs. State of Jharkhand and others reported in 2006(4) JLJR702 contends that after the decision of this Court in the aforesaid case, it was not open to the respondent-State 2 to terminate the service of appellant. It is submitted that at the first instance 932 persons were identified as beneficiaries of malpractices during the selection and thus, the respondents are bound by their own stand. It is contended that the learned Single Judge erred in law in ignoring the fact that subsequently also this Court in Ranjay Kumar Singh Vs. State of Jharkhand and others reported in 2009(4) JLJR543 quashed the order of dismissal from service which was initiated on the allegation of over writing and interpolation in the Master Chart and therefore, order impugned is liable to be interfered with.

4. Per contra, Mr. Anil Kumar, learned JC to Advocate General, submits that the decision of this Court in the aforesaid two cases would not govern the case of the appellant inasmuch as, this Court did not curtail the power of the State to conduct inquiry in individual cases. It is submitted that the decision in Ranjan Kumar Singh and other cases were rendered in peculiar facts of the case and those are not binding precedents.

5. We have carefully considered the contentions raised on behalf of the parties and perused the documents on record.

6. The appointments made pursuant to Advertisement No.01/2004 led to a series of litigations. The appellant- writ petitioner was a candidate for the post of Constable and he was declared successful candidate. The appellant vide letter dated 10th April, 2007 was directed to report for duty and after he worked for one month and received salary for the said period, a show cause was issued to him on 26th May, 2007 for dismissal from service on the allegation of over- writing and interpolation in the Master 3 Chart. The reply of the appellant was not accepted and he was dismissed from service on 12 th June, 2007. The said order was

challenged by the appellant in W.P.(S) No.4351 of 2007 and this Court vide order dated 27 th August, 2008 quashed the order of dismissal from service and subsequently appellants joining was accepted vide District Order No.2721 of 2008 issued on 12 th December, 2008. Again, a charge-memo was served upon the appellant on 16th March, 2009 and he was dismissed from service vide order dated 16th June, 2009.

7. It appears that the entire selection pursuant to Advertisement No.01 of 2004 in four districts namely, Hazaribagh, Koderma, Chatra and Giridih were cancelled on 10th December, 2005. Batch of writ petitions were filed in this Court and vide judgment and order dated 10 th November, 2006 in W.P.(S) No.1242 of 2006 with batch cases, this Court quashed the order cancelling appointments in the four districts, however 932 candidates who were identified by the Inquiry Officer as beneficiaries of malpractice during selection were excluded from consideration. Subsequently, orders passed in the proceeding initiated against 139 selected candidates, who were allegedly beneficial of over-writing and interpolation in the Master Chart, travelled to this Court and in some of the matters this Court quashed the order of dismissal from service.

8. In so far as decisions in Krishna Jee (supra) and Ranjay Kumar Singh (supra) are concerned, it has to be kept in mind that those decisions were rendered in peculiar facts and circumstances of the case. It is well settled that, a judicial decision is an authority for what it actually decides and not for what can be read into it. In 4 Ambica Quarry Works Vs. State of Gujrat (1987) 1 SCC213 it has been held that a decision must be understood in the background of the facts of that case. The Hon'ble Supreme Court has held thus:

18. .The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it

9. In Krishna Jees case (supra), this Court interfered with the order of mass cancellation of appointments primarily on the ground that the Inspector General of Police, who conducted an inquiry had identified 932 candidates as beneficiaries of malpractices in selection. In the said case, this Court did not restrict any further

inquiry in the matter. The import of the decision in Krishna Jee case is that 932 candidates who were identified as beneficiaries cannot be selected. In Ranjay Kumar Singhs case(supra), the writ petition was dismissed in limine. This Court when found that the said appellant was dismissed from service on the basis of the inquiry report dated 31.10.2005, which was the very basis on which the decision in Krishna Jee case was founded, quashed the order of dismissal from service.

10. The present case is a case entirely different on facts inasmuch as, dismissal of the appellant from service is pursuant to Departmental Proceeding no.31 of 2009. The inquiry conducted by the department disclosed that page in the Master Chart on which the name of appellant appeared was prescribed for entering only five names whereas, four more candidates have been included on the same page. The reply of appellant to the charge-memo is confined to the order passed in W.P.(S) 5 No.4351 of 2007. The appellant contended that initially while examining the irregularities committed during selection, appellant was not found one of the beneficiaries. During the departmental proceeding, the appellant was afforded adequate opportunity to defend himself and at any stage he has not raised the grievance in respect of violation of rules of natural justice. It further appears that the appellants roll no.3331 was, in fact, included in the list of 932 persons who were beneficiaries of malpractices in selection, however by virtue of order passed by this Court in W.P.(S) No.4351 of 2007 he was reinstated in service and a fresh inquiry was initiated. The learned Single Judge has noticed that besides 932 candidates, who were identified by the Inspector General of Police while conducting an inquiry in the matter, inquiry was still going on in respect of some other candidates. Not only that, the petitioner-appellant gave false information in the application form wherein, he has mentioned his permanent address at Tatisilway, Ranchi whereas, residential certificate produced by him disclosed his permanent address at Devrath, Bhojpur in Bihar.

11. The appellant no doubt, secured appointment by playing fraud and misrepresentation. Centuries ago, Chief Justice Edvard Coke proclaimed fraud avoids all judicial acts, ecclesiastical or temporal. The Honble Supreme Court in Meghmala and others vs. G.Narasimha Reddy and others reported in (2010) 8 SCC383observed as under :

34. Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, careless whether it be true or false. Suppression of a material document would also amount to a fraud on the court

12. The learned Single Judge has also dealt with this aspect referring to the decision in Devendra Kumar Vs. State of Uttranchal & ors. reported in (2013) 9 SCC363 whereunder, the Honble Supreme Court held thus:

13. It is a settled proposition of law that where an applicant gets an office by misrepresenting the facts or by playing fraud upon the competent authority, such an order cannot be sustained in the eye of law. Fraud avoids all judicial acts, ecclesiastical or temporal.(vide S.P.Changalvaraya Naidu v. Jagannath.) In Lazarus Estates Ltd. v. Beasley the Court observed without equivocation that: (QB p.712) ... No judgment of a court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for fraud unravels everything.

13. Finding no infirmity in the impugned order dated 31.7.2015 passed by the writ Court, we are not inclined to interfere in the matter and resultantly, the instant Letters Patent Appeal is dismissed. (Virender Singh, C.J.

) (Shree Chandrashekhar, J.) G.Jha/AFR

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