

**Binod Rabi and Anr Vs. Personnel and Adminis Reform**

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**Court :** Jharkhand

**Decided On :** Dec-07-2016

**Appellant :** Binod Rabi and Anr

**Respondent :** Personnel and Adminis Reform

**Judgement :**

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 1947 of 2013  
Raju Ram, son of Bhuneshwar Ram, Resident of Romi, Pelawal, PO & PS-  
Pelawal, Dist.-Hazaribagh, Jharkhand .... Petitioner -Versus-

1. State of Jharkhand
2. The Secretary, Personnel and Administrative Department, Govt. of Jharkhand,  
At-Project Building, Dhurwa, PO & PS- Dhurwa, Ranchi
3. The Secretary, Labour Employment and Training Department, Govt. of  
Jharkhand, At-Project Building, Dhurwa, PO & PS- Dhurwa, Ranchi
4. Assistant Director(Employment), Additional Regional Employment Exchange,  
Hazaribagh, PO & PS-Sadar, Dist- Hazaribagh, Jharkhand
5. Deputy Commissioner, Hazaribagh, PO & PS-Sadar, Dist- Hazaribagh,  
Jharkhand .... Respondents With W.P.(S) No. 2084 of 2013

1. Binod Rabi Son of Late Babulal Ram, Resident of Vill.- Pandeyapura, Kandaber, PO & PS-Keredari, Dist.-Hazaribagh, Jharkhand
  2. Shashikant Sahu, son of Laxmikant Saw, Resident of village- Okni, Teli Tola, PO-Okni, PS-Sadar, Dist.-Hazaribagh ..... Petitioners -Versus-
1. State of Jharkhand
  2. The Secretary, Personnel and Administrative Department, Govt. of Jharkhand, At-Project Building, Dhurwa, PO & PS- Dhurwa, Ranchi
  3. The Secretary, Labour Employment and Training Department, Govt. of Jharkhand, At-Project Building, Dhurwa, PO & PS- Dhurwa, Ranchi
  4. Assistant Director(Employment), Additional Regional Employment Exchange, Hazaribagh, PO & PS-Sadar, Dist- Hazaribagh, Jharkhand
  5. Deputy Commissioner, Hazaribagh, PO & PS-Sadar, Dist- Hazaribagh, Jharkhand .... Respondents ----- CORAM: HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR ----- For the Petitioner(s) : Mr. Ranjit Kumar, Adv. For the Respondents : Mr. Abhijeet Kr. Singh, Adv. (in W.P.(S) No. 1947/2013) Ms. Ruchi Rampuria, Adv. (in W.P.(S) No. 2084/2013) ----- 11/07.12.2016 Both the writ petitions have been filed questioning legality of order dated 30.12.2008, whereby claim of the petitioner(s) for appointment on Class-IV posts on the ground that persons junior to them have been appointed, has been rejected.
2. Heard.
  3. Pursuant to advertisement no. V022002 issued on 4th April, 2002 inviting application from candidates enrolled in the District Employment Exchange for appointment on Class-IV vacant posts in various Muffasil Offices in Hazaribagh district, the petitioners submitted their applications in prescribed format. They assert that they possess requisite qualification for appointment on Class-IV posts. Petitioner in W.P.(S) No.1947 of 2013 belongs to scheduled caste category. Similarly, petitioner No.1 in W.P.(S) No. 2084 of 2013 belongs to scheduled caste category whereas, petitioner No.2 belongs to O.B.C. category. In the panel of 450

candidates prepared by the respondent, name of the petitioners were included. On 25.10.2005, 346 candidates were recommended for appointment on existing vacancies and appointment letters to 308 candidates were issued. The petitioners and 20 other candidates approached this Court by filing W.P.(S) No.4238 of 2006 raising a grievance to the appointments made in breach of roster, which provided 18% seats for scheduled caste candidates, 24% for O.B.C. candidates and 8% for scheduled tribe candidates. The writ petition was disposed of vide order dated 23.08.2008 with a direction to the respondents to consider petitioners' representation for their appointment on existing vacancy on Class-IV posts in Hazaribagh district. Order dated 16.10.2008 whereby their representation has been rejected, is under challenge in the present proceeding.

4. The learned counsel for the petitioners referring to order dated 13.1.2013 passed in Baleshwar Ravidas Vrs. State of Jharkhand and Others [W.P.(S) No. 5125 of 2006] contends that the said Baleshwar Ravidas who was a scheduled caste candidate at serial No.370 and one Ranjit Kumar, who also belongs to scheduled caste category at serial no.385 were appointed whereas, petitioners' claim has been rejected only on the ground that panel prepared has already lapsed. The learned counsel has referred to orders passed in W.P.(S) No.6669 of 2006 and W.P.(S) No. 2819 of 2006.

5. Supporting the impugned order dated 16.10.2008, the learned State counsel contended that at least two regular recruitment exercises for appointment on Class-IV posts have been completed after the panel was prepared in the year 2005 in which petitioners' name figured in the select list. It is contended that 10 years thereafter no direction for appointment of the petitioners can be issued, who have no legal right to seek mandamus for their appointment only on the ground that candidates lower in merit-list to him have been appointed.

6. At the outset, it needs to be mentioned that appointment of Ranjit Kumar, Baleshwar Ravidas and other candidates who were in the panel prepared for appointment of Class-IV employees, was pursuant to direction issued by this Court. Order passed in Baleshwar Ravidas case [W.P.(S) No.5125 of 2006] reveals that he approached this Court in the year 2006 itself, that is, before expiry

of one year period from 21.10.2005 when the panel was prepared. In that case by the interim order dated 12.9.2006 it was observed that appointments made from the said panel shall be subject to result of the writ petition. This writ petition has been filed in the year 2013, about 5 years after the impugned order was passed. From the orders passed in the writ petitions it would appear that it was not brought to the notice of the Court that several other persons with higher position in the select list were waiting for appointment. The respondents have asserted that by a general notice issued on 20.02.2006 candidates were required to produce their certificates by 10.03.2006, however, the petitioner [in W.P.(S)No.1947/2013] did not produce his certificate and he failed to appear before the District Level Panel Construction Committee. It is stated that subsequent appointments were made against the existing vacancies and in terms of decision of the District Level Panel Construction Committee dated 16.10.2008, and as per the merit list 21 names were recommended for appointment. The petitioners who were lower in the merit list could not be appointed for want of vacancy. In response to I.A. No.5294 of 2016, an affidavit was filed on 19.09.2016 by Nazarat Deputy Collector, Hazaribagh stating that there was no vacancy in the S.C. category. However, the petitioners produced communication received through R.T.I. to contend that still there are vacancies in the S.C. category. The aforesaid position has been clarified by filing another affidavit on 21.11.2016 by Nazarat Deputy Collector, pleading that letter dated 17.09.2016 of the Deputy Commissioner, Hazaribagh merely indicates the number of vacancies in S.C. category as per the roster prepared by the district, which has yet not been approved by the competent authority. It is an admitted position that there is no vacancy as on date under S.C. or O.B.C. category, out of the vacancies notified in the year, 2002.

7. Be that as it may, the petitioners on the basis of their inclusion in the select list cannot claim an indefeasible right for appointment. It is not in dispute that the petitioners had opportunity to participate in the selection process which was initiated in the year 2010 and thereafter also. Any vacant post of 2002, if remained unfilled must have been included in the subsequent advertisements issued for appointment on Class-IV posts. Moreover, against the vacancies which were advertised in the year 2002, 15 years thereafter the petitioners cannot claim a legal right in themselves for appointment only on the ground that few persons who

were below them in the select list have been appointed pursuant to orders passed by this Court.

8. Considering the aforesaid facts, I find no merit in the writ petitions and accordingly, these are dismissed. (Shree Chandrashekhar, J.) sudhir

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