

Raghunath Prasad Singh

Vs

Secretary, Home (Police) Department, Government of Bihar and Others

Civil Appeal No. 2439 of 1982

(Ranganath Misra, M. M. Dutt JJ)

11.12.1987

ORDER

1. This appeal by special leave is directed against the decision of a Division Bench of the Patna High Court rejecting the writ petition of the appellant who had claimed for being absorbed in the regular police force on the basis of exercise of option.

2. It is not disputed that until May 6, 1970, there was a combined police force in the State of Bihar raised under the Police Act of 1861 which included regular police personnel and those serving in the Singal (Wireless) branch. On May 6, 1970, the wireless wing was separated. Admittedly, the appellant was recruited as a constable in the wireless wing after May 1970. A Division Bench of the Patna High Court in C.W.J.C. 21 of 1968, disposed of on May 9, 1969, while dealing with the case of literate recruited into the Bihar Police Signals directed :

We, therefore, direct the respondents to treat the petitioner as a member of the single police force until two separate cadres are created for the wireless and the general sections by asking the personnel to opt for one or the other and to consider his case in the matter of promotion along with the other literate constables of the general police force.

On May 9, 1970, the State Government issued the following direction to the Inspector General of Police :

Sub : Declaration of the General Wireless Organisation of the police department as a closed cadre and separate from the general police cadre

Orders - Sanctioned with effect from the date of issue of the order.

2. All the existing permanent and temporary posts of the police wireless organisation will be deemed to be a part and parcel of the above cadre.

3. The existing staff of the police wireless organisation will have the option either to remain within the abovementioned cadre or to opt for the general police cadre. The option will have to be exercised within three months from the date of issue of the order ...

On January 1, 1974, further instructions were issued to the Inspector General of Police to the following effect :

Sub : C.W.J.C. No. 21/68 - Sh. Ramdev Singh v. State of Bihar and Others. - for the

implementation of the orders of the Patna High Court.

Sir,

With reference to the G.O. letter No. 3247 dated July 27, 1974 of Shri T. P. Sinha, Assistant Inspector General of Police (Communication) on the subject abovementioned, I have been directed to say that the State Government has taken the decision that fresh option be taken from the existing staff of Police Wireless Organisation in connection with their adjustment in the general police cadre. The opinion can be taken within two months of the issue of the orders ...

The appellant claimed that he was entitled to exercise option and since option was not asked from him, he may be reverted to the general cadre. When that was not done, he applied to the High Court for direction. The High Court found that the benefit of option was confined to recruits prior to May 6, 1970 and since the appellant had been recruited long after that date, he was not entitled to the exercise of benefit of option. The writ application was accordingly dismissed and that decision is the subject matter of the appeal.

3. We have read the judgment of the High Court with reference to the documents placed and heard counsel for parties. There is no doubt that the High Court was right in finding against the appellant that the option in terms of the instructions dated October 1, 1974 was available to those who came within the ambit of the earlier judgment. Thus the appellant being a recruit of 1972-73 not in the combined cadre but in the wireless organisation, was not entitled to the benefit of option. His appeal, is, therefore liable to be dismissed.

4. Before we part with the appeal we would like to take notice of another aspect. In course of hearing of the appeal to a query made by us, learned counsel for the appellant indicated the reason as to why the appellant was anxious to switch over to the general cadre. He relied upon two or three communications which are a part of the record where it has been indicated that there is no promotional opportunity available in the wireless organisation. Reasonable promotional opportunities should be available in every wing of public service. That generates efficiency in service and fosters the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly. We would, therefore, direct the State of Bihar to provide at least two promotional opportunities to the officers of the State Police in the wireless organisation within six months from today by appropriate amendments of Rules. In case the State of Bihar fails to comply with this direction, it should, within two months thereafter, give a fresh opportunity to personnel in the police wireless organisation to exercise option to revert to the general cadre and that benefit should be extended to everyone in the wireless organisation.

5. The appeal is dismissed with the directions indicated above. There would be no order for costs.

</html