

SUPREME COURT OF INDIA

Maheshwari Prasad

Vs.

State of Jharkhand

C.A.No.3393 of 2012

(Altamas Kabir and Surinder Singh Nijjar JJ.)

04.04.2012

JUDGMENT

ALTAMAS KABIR, J.

1. Leave granted.

2. These Appeals are directed against the judgment and order dated 14th September, 2006, passed by the Jharkhand High Court in L.P.A. No.229 of 2006, dismissing the same. The said Letters Patent Appeal was directed against the judgment and order passed by the learned Single Judge on 13th April, 2006 in W.P.(S) No.831 of 2006, and was disposed of in terms of an earlier order passed by the High Court in W.P.(S) NO.5459 of 2005. L.P.A. No.729 of 2005, preferred by the said Writ Petitioners, was dismissed by a Division Bench of the Jharkhand High Court on 22nd February, 2006, upholding the judgment and order of the learned Single Judge in W.P.(C) No.5459 of 2005. In order to appreciate the impugned judgment of the Division Bench of the High Court, it will be necessary to set out some facts in relation to L.P.A. No.729 of 2005, which had arisen out of W.P.(S) No.5459 of 2005 and had been dismissed.

3. By an advertisement No.2/2004 published in the b Hindustan, Ranchi on 6th February, 2004, candidates who had passed the VIIth Class were invited to file applications to fill up 350 vacancies in the post of Police Drivers in the different district forces of the Jharkhand Police. In order to be eligible, a candidate was required to have passed the VIIth standard and was also required to possess a licence for driving b heavy and light/heavy vehicles from at least two years prior to the date of the advertisement. The Appellants therein along with other candidates

filled up the requisite forms and appeared in the test which was conducted pursuant to the advertisement. The result-cum-merit list of successful candidates was published in the Hindustan on 29th May, 2005, in which the Appellants were declared successful. However, the said result was revised and the merit list was republished on 23rd August, 2005, from which the Appellants have been excluded.

4. On behalf of the Writ Petitioners it was contended that in the advertisement, there was no condition for possessing a licence for driving heavy motor vehicles and that the condition relating to possession of a licence for driving heavy motor vehicles was introduced only to accommodate other candidates. The said submission was countered on behalf of the Respondent State and it was mentioned that a decision had been taken by the Selection Committee that only those selected candidates who had licence for driving heavy vehicles before publication of the advertisement, should be appointed. Since the Appellants did not hold driving licences for heavy motor vehicles, they were excluded from the revised list of successful candidates. It was also contended on behalf of the Respondent State that for the purpose of recruitment of Police Drivers in different J.A.P. Battalions only such candidates who held heavy motor vehicle driving licences, issued to them prior to the publication of the advertisement, had been considered and declared successful by all other Selection Boards constituted by the Police Headquarters. In the judgment delivered by the Division Bench of the Jharkhand High Court in L.P.A. No.729 of 2005, the condition relating to driving licences which the candidates were required to possess was set out in its Hindi form though in English script along with an English translation. Inasmuch as, the same is of importance for a decision in these appeals as well, the same is extracted hereinbelow:-

Motorgari chalane ki Anugyapati : Jinke pass {bhari tatha chhoti/bhari gari chalane hetu} motor challan ki aisi anugyapati prapt ho jo rikti ke vigyapan ki tithi se kam se kam do varas purva nirgat ki gayee ho. English Translation :

Motor driving licence : A person having {Heavy and light/heavy driving licence} such motor driving licence which must be issued at least two years prior to the date of publication of the vacancy.

5. On behalf of the Appellants it was contended by Mr. Shekhar Prit Jha, learned advocate, that the earlier decision in L.P.A. No.729 of 2005, did not correctly appreciate the provisions of the advertisement and the Division Bench of the High Court, which decided the present L.P.A. No.229 of 2006, committed an error in relying upon the same.

6. Mr. Jha submitted that the advertisement in question clearly indicated that the eligibility criteria for recruitment of Police Drivers in different J.A.P. Battalions made it compulsory for a candidate to have a licence which either enabled the licence holder to drive heavy motor vehicles or light motor vehicles and heavy motor vehicles. Mr. Jha submitted that reading the advertisement, as it is, it cannot be said that the eligibility criteria was confined to holding of a licence to drive heavy motor vehicles only. Learned counsel urged that by entertaining the candidature of only those who possessed licences for driving heavy motor vehicles, the Respondents had acted contrary to the advertisement and the recruitment process was, therefore, required to be nullified. Mr. Jha further submitted that the judgment of the Division Bench in L.P.A. No.729 of 2005 was based on certain surmises that for the purpose of driving armed forces vehicles, a candidate must possess a driving licence to drive heavy motor vehicles, which, according to Mr. Jha, went against the very grain of the advertisement.

7. As to the other question, as to whether having been selected, the Appellants were entitled to appointment, is another issue altogether since at the very basic stage the Appellants were being sought to be excluded from consideration since they did not have driving licences for driving heavy motor vehicles exclusively.

8. On the other hand, appearing for the State and the other Respondents, learned counsel submitted that the judgment and order passed in L.P.A. No.729 of 2005 was fully justified, since it was the Recruitment authorities who were conscious of the purpose for which the appointments were being made. It was submitted that in L.P.A. No.729 of 2005, a counter affidavit had been filed in which it was stated that a decision had been taken by the Selection Committee that only those successful candidates, who had licences for driving heavy motor vehicles, who should be appointed, since the purpose of recruitment for such drivers was to drive heavy motor vehicles, which the holder of a licence for driving light motor vehicles was not entitled to do.

9. Learned counsel submitted that the Division Bench of the Jharkhand High Court did not commit any error in disposing of the matter in terms of the judgment delivered in L.P.A. No.729 of 2005.

10. Having heard learned counsel for the respective parties, we are of the view that even the advertisement on which reliance has been placed by the Appellants herein, laid stress on a candidate having to possess a licence for driving heavy motor vehicles. The criteria for eligibility in the advertisement indicates that the

candidate had to hold a licence for driving heavy motor vehicles or light motor vehicles along with heavy motor vehicles. In our view, the second criteria did not necessarily mean that a person holding a licence for driving light motor vehicles had to be selected, since in the advertisement it was a person holding a licence for driving light motor vehicles as well as heavy motor vehicles, who was eligible for appointment. It is not as if the advertisement indicated that a candidate possessing a licence for driving only light motor vehicles would be eligible, the same had to be combined with the right to drive heavy motor vehicles. In other words, those having a combined licence for driving both light motor vehicles and heavy motor vehicles, would be considered for appointment, along with those holding a licence to drive heavy motor vehicles exclusively.

11. Moreover, we are inclined to agree with learned counsel for the Respondents that it is for the recruiting authorities to consider the candidates to be appointed according to their needs. It does not appear to us that there has been a departure from the advertisement as published.

12. We, therefore, see no reason to interfere with the judgment and order of the Division Bench of the Jharkhand High Court impugned in these Appeals and the same are, accordingly dismissed.

13. There will, however, be no order as to costs.