

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 63 of 2024

Shivender

.... Petitioner

Versus

1. The State of Jharkhand through its Chief Secretary, Ranchi.
2. The Principal Secretary, Department of Home, Prison & Disaster Management, Ranchi.
3. The Additional Chief Secretary, Department of Home, Prison & Disaster Management, Ranchi.

.... Respondents

CORAM : HON'BLE DR. JUSTICE S.N. PATHAK

For the Petitioner : Mr. P.P.N. Roy, Sr. Advocate
Mr. Radha Krishna Gupta, Advocate
For the Respondents : Mr. Shubham Gautam, AC to AAG-IV

4/ 02.04.2024 Heard Mr. P.P.N. Roy, learned senior counsel assisted by Mr. Radha Krishna Gupta, learned counsel appearing for the petitioner and Mr. Shubham Gautam, learned counsel representing the respondents.

2. The petitioner has challenged the order contained in Memo No. 13 dated 16.10.2023 (Annexure-5) whereby the claim of the petitioner for confirmation of his service has been rejected.

3. Earlier the petitioner had moved before this Court in W.P.(S) No. 3979 of 2021 claiming parity for confirmation of his service in view of selection in the 2nd Combined Civil Services Examination conducted by Jharkhand Public Service Commission. It was specific case of the petitioner that because of pendency of the CBI enquiry, the case of the petitioner has not been considered for confirmation, though similarly situated persons against whom also, the same CBI enquiry is pending, their services have been confirmed and they have been granted promotions also. Taking into consideration these factual aspects, this Court passed the order on 10.08.2023 with the direction to the respondents to consider the case of the petitioner, if parity is in favour of the petitioner.

4. Mr. P.P.N. Roy, learned senior counsel appearing for the petitioner submits that in view of specific order and direction passed by this Court, the petitioner filed representation before the respondents, but the same was turned down once again on the same ground that the CBI enquiry is pending against him. Learned senior counsel empathically argues that since similarly situated persons, against whom same CBI enquiry is pending, have already been considered and their services have been confirmed and promotions were also

given to them, still the impugned order rejecting the confirmation of service has been passed by the respondents, which is not sustainable in view of equality clause enshrined in Article 14 of the Constitution of India. Hence, the impugned order needs to be quashed.

5. Learned counsel appearing for the respondents vehemently opposes the contention of learned counsel for the petitioner and submits that since a CBI case is pending, the case of the petitioner for confirmation has not been considered and has been turned down.

6. Having gone through the rival contentions of learned counsel for the parties, this Court is of the view that the petitioner along with several others have been appointed through 2nd Combined Civil Service Examination. Admittedly there is a CBI enquiry with respect to appointment of 2nd Combined Civil Services Examination pending since long. Meanwhile, the cases of several other persons for confirmation of their services have been considered and they have also been granted promotion, but the case of the petitioner has been rejected, which amounts to discrimination. Pick and choose method has been adopted by the respondents, which is in complete violation of constitutional provisions as enshrined in Article 14 of the Constitution.

7. It is not the case of the respondents that the petitioner is an incompetent person or he has not cleared the departmental examination meant for confirmation. In absence thereof, the respondents are not justified to reject the claim of the petitioner for confirmation, that too when similarly situated persons have been considered for confirmation of their services.

8. In view of backdrop of the case, the impugned order contained in Memo No. 13 dated 16.10.2023 (Annexure-5) is hereby quashed and set aside. The respondents are directed to issue the order for confirmation of service and extend the consequential benefits thereof within a period of six weeks from the date of receipt of a copy of this order.

Needless to say that upon confirmation of service, the respondents shall also consider the case of the petitioner for promotion, if there is no other legal impediment, in accordance with law.

9. The writ petition is, accordingly, allowed.

(Dr. S. N. Pathak, J.)