

ITEM NO.13

Court 4 (VC)

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No.7941/2020

(Arising out of impugned final judgment and order dated 28-11-2019 in LPA No. 11/2019 passed by the High Court of Jharkhand at Ranchi)

THE STATE OF JHARKHAND & ORS.

Petitioner(s)

VERSUS

PANKAJ KUMAR & ORS.

Respondent(s)

(With appln.(s) for interim relief, exemption from filing O.T. and permission to file additional documents/facts/Annexures)

Date : 18-08-2020 This petition was called on for hearing today.

CORAM :

**HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MR. JUSTICE K.M. JOSEPH**

**For Petitioner(s) Ms. Pragya Baghel, Adv.
Ms. Pallavi Langar, AOR
Mr. Ritesh Khare, Adv.**

For Respondent(s)

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 Ms Pragya Baghel, learned counsel appearing on behalf of the petitioner has submitted that the impugned judgment of the High Court suffers from an error on two counts; (i) the High Court has erroneously recorded that the respondent was at serial number 98 of the panel list; and (ii) there are no vacancies in existence.

- 2 In this context, learned counsel relied upon the ground Nos iii, iv and vii which were raised in the Letters Patent Appeal (LPA No 11 of 2019) filed before the High Court (Annexure P-12). Ground Nos iii, iv and vii read as follows:

(iii) For that the Hon'ble Single Judge has failed to take note of the fact that the petitioner/respondent's allegation that other persons who are below in the penal has been appointed ignoring the case of the writ Petitioner is factually incorrect because the list, which is annexed in the writ application along with Annexure-6 dated 07.04.2006, is the list of the Petitioners of C.W.J.C. No. 2338 of 1998 and not that of the panel giving the names in seniority manner. Therefore, there is no question that the persons whose names appear later cannot be given appointment prior to the names appearing above them.

(iv) For that the writ petitioner's matter was considered for the district of Sahebganj Road Construction Department Road Division, Sahebganj wherein in the year 2006 there were three posts, after roaster clearance, were found vacant wherein one post against guard (Unreserved), one post of Daftari (Unreserved) and third post for treasury guard (ST category). The post of Guard was filled up recommendation by of Shri Matal Karamkar on the Compassionate Appointment Committee, second post was filled up by Shri Anand Jai Hansda who was District Panel and the third post was given Shri Chandra Moleshwar Kumar who was one of the Petitioner in C.W.J.C. No. 2338/98 whose name appeared a Sl. No.86 in the list given in Annexure-6 of the Writ application. In the aforesaid scenario, in the relevant division, there was no post vacant, Therefore, the case of the writ petitioner could not be considered in 2006.

(vii) For that the Hon'ble Single Judge has failed to take note of the fact that the order passed by the Hon'ble Court in C.W.J.C. No.2338/98 there was no specific direction to appoint all the petitioners only barring others, rather there was direction to fill up all the vacant post giving certain relaxation on their age, and according to the direction the respondents found 103 vacant post, and after getting roaster clearance the same was notified and filled by the eligible candidates and taking note of the aforesaid fact this Hon'ble was pleased to drop the contempt proceedings in Cont. Case (Civil) no.977 of 2002 vide order dated 07.08.2006 arises out of C.W.J.C. No. 2338/98."

- 3 We are of the view that it would be appropriate to allow the petitioners to file a review petition before the High Court.
- 4 The Special Leave Petition is disposed of granting liberty to the petitioners to move the High Court by way of review. If the petitioners are aggrieved by the order that may be passed by the High Court on the review petition, it would be open to them to challenge the order of the High Court on all available grounds including those which have been raised in the present Special Leave Petition.
- 5 The Special Leave Petition is accordingly disposed of.
- 6 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
AR-cum-PS

(SAROJ KUMARI GAUR)
BRANCH OFFICER