

A DEPUTY DIRECTOR (MINERALS), DALONTGUNJ CIRCLE ETC.

v.

MUSTAK ALI AND ORS.

JANUARY 2, 1996

B [K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Service Law :

C *Bihar State Government Service—Appointment to Class III and Class IV posts—Procedure—District Magistrate or Deputy Commissioner preparing list of eligible candidates according to procedure provided—Instructions to Department concerned to constitute Selection committee for selection of candidates—Whether department concerned is bound by the selection made by the District Magistrate/Deputy Commissioner—Held, no since the needs of each department would be frustrated if its own selection procedure by duly constituted Committee is ignored.*

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1576 of 1996
Etc.

From the Judgment and Order dated 6.10.93 of the Patna High Court in
E C.R. No. 20 of 1992.

B.B. Singh for the Appellants.

Uday Sinha and Anil Kr. Jha for the Respondents.

F The following Order of the Court was delivered :

Though notice was served on the respondents, none appeared either in person or through counsel.

Leave granted in both the special leave petitions.

G C.A. NO. 1576 OF 1996 @ SLP (C) No. 5321/94

The only controversy is whether the High Court was right in its impugned order in CWJC No. 24/92 made on March 11, 1993 to direct the appellants to implement the list prepared by the Deputy Commissioner, Palamau at
H Dalontgunj to appoint respondents in this case. There appears to be two proce-

DEPUTY DIR. (MINERALS) DALANTGUNJ CIRCLE ETC. S v. MUSTAK ALI 9

dures prevailing in the State of Bihar, namely, Deputy Commissioner or District Magistrate to prepare list of eligible candidates according to the procedure provided for appointment of Class III and Class IV employees to the vacancies existing in the District. Equally, instructions were given for the Department of the Mines and Geology which is now annexed as Annexure 2 in the paper book. It would indicate in para 3 therein that a committee consisting of (i) Deputy director (Geology) - Chairman, (ii) Assistant Director (Geology) of the Circle - Member, (iii) District Welfare Officer of the District where the circle office is located - Member, (iv) One officer of Scheduled Castes/ Scheduled Tribes - Member, were required to select candidates for appointment as Class III and Class IV employees of the appellants-Department. Instead of acting on it, the appellate Court directed to appoint the candidates found in the list sent by the District Magistrate. The question is whether the department is bound by the directions and appoint candidate from the list prepared by the Deputy Commissioner or the District Magistrate, as the case may be? If it is so held, the needs of each Department of Government, when required to select candidates and to prepare the select list after following the selection procedure and recruitment of Class III and Class IV employees would be frustrated and the prescribed procedure would be rendered surplusage and otios. Our answer is yes. The Department was to constitute a committee for selection of such candidates and to make appointment of the selected candidates selected by the committee. Thus we can visualise that, as regards the Department of Mines and Geology, they are regulated by yet another prescribed procedure than was done by the district authorities to select the candidates as per requirement of the Department. Deputy Commission or District Magistrate, though is competent to prepare list after due selection, it would be for the Department to select and appoint according to rules. We are of further view that acceptance of list of candidates sent by District Magistrate would frustrate the regulations and acts counter productive to step up appointment of persons not either qualified or eligible for the posts of the other Department. It would not be a recruitment Board constituted for all the Departments. Under these circumstances, the High Court was wholly unjustified in issuing direction to follow the list prepared by the Deputy Commissioner. The said directions are set aside.

It would be open to the appellants to select such candidates according to rules. It would call the names from employment exchange and also by publication in newspaper and to select the eligible and fit candidates for 8 vacancies available in the Department or any post available as on today. It should be

10

SUPREME COURT REPORTS

[1996] 1 S.C.R.

A done after publication of an advertisement in that behalf calling for application and also calling names from employment exchange. The Committee should consider their cases and select the candidates according to rules and then appointment order shall be made thereafter.

C.A. No. of 1996 @ SLP (C) No. 15440- of 1994.

B

This appeal relates to the appointment of Class III and Class IV employees in Labour and Employment Department. For the same reasons as given above, the directions issued by the High Court were wholly unjustified in law and are set aside.

C

In the result, both the appeals are allowed. No costs.

G.N.

Appeals allowed.