

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3393 OF 2012
(Arising out of SLP(C)No.3655 of 2007)

MAHESHWARI PRASAD & ORS. ... APPELLANTS

Vs.

STATE OF JHARKHAND & ORS. ... RESPONDENTS

WITH

CIVIL APPEAL NOS.3394-3395 OF 2012
(Arising out of SLP(C)Nos.14397-14398 of 2008)

SRI PRAYAG MEHRA ... APPELLANT

Vs.

STATE OF JHARKHAND & ORS. ... RESPONDENTS

J U D G M E N T

ALTAMAS KABIR, J.

1. Leave granted.

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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
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the "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 "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.

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4. On behalf of the Writ Petitioners it was

chalane hetu} motor challan ki aisi
anuagyapati 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

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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

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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.

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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

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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

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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.

WITH

C.A.NO.3394-3395/2012 @ SLP(C) NO. 14397-14398 of 2008

Date: 04/04/2012 These Appeals were called on for JUDGMENT today.

For Petitioner(s)

Mr. Shekhar Prit Jha,AOR.

Mr. Sumit Kumar, AOR.

For Respondent(s)

Mr. Ratan Kumar Choudhuri,AOR.

Mr. Ambhoj Kumar Sinha ,AOR

Mr. Dharmendra Kumar Sinha ,AOR

Hon'ble Mr. Justice Altamas Kabir
pronounced the judgment of the Bench
comprising His Lordship and Hon'ble Mr.
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Justice Surinder Singh Nijjar.

Delay condoned.

Leave granted.

The appeals are dismissed in
terms of the signed judgment.

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

(Sheetal Dhingra)

(Juginder Kaur)

Court Master

Assistant Registrar

[Signed Reportable Judgment is placed