

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12981 of 2014

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1. Binod Kumar Singh, S/o Sri Vishwa Nath Singh, Resident of Village- Madhe, P.S.- Navi Nagar, District- Aurangabad
 2. Pratap Kumar Sinha S/o Late Shiv Shankar Pd., Resident of village- Badi Machhua Toli, Near Danapur Cantt., P.S.- Danapur, District- Patna
 3. Ravi Shekhar Pandey S/o Late Rambriksha Pandey, Resident of village- Arari, P.S.- Sarai, District- Vaishali
 4. Satish Chandra Prasad S/o Late Baidya Nath Pd., Resident of village- Pauk, P.S.- (Jairampur Morh), Barbiga, District- Sheikhpura
 5. Birendra Kumar S/o Late Dodraj Prasad, Resident of village- Jorarpur, P.S.- Deepnagar, District- Nalanda
 6. Chandra Bhushan Prasad S/o Late Basant Singh, Resident of village + P.O.- Nagarnausa, P.S.- Nagarnausa, District- Nalanda, Pin- 801305
 7. Sunil Kumar Sinha S/o Sri Uma Shankar Pd., Resident of village- Sahi Niwas, New Colony- Jail Hata, P.S.- Daltanganj, District- Palamu (Jharkhand)
 8. Samrendra Kumar S/o Late Jhingru Thakur, Resident of village- Dayalpur, P.S.- Bihpur, District- Bhagalpur
 9. Arun Kumar Singh, S/o Sri Rajendra Prasad Singh, Resident of village- Bijulia, P.S.- Samho, District- Begusarai
 10. Sudhir Kumar Singh Shastradhar, S/o- Late Umeshwar Singh, Resident of village- Sakri Gali, P.O. Gulzarbagh, P.S.- Alamganj, District- Patna
 11. Viswanath Kumar, S/o Suraj Dayal Singh, Resident of village- Jamhuria, Via- Usri, District- Jehanabad
 12. Ram Suresh Choudhary S/o Late Tej Narayan Choudhary, Resident of village- Shastram, P.S.- Biroul, District- Darbhanga
 13. Parma Nand singh, S/o Late Ram Kailash Singh, Resident of village- Garura, P.S.- Sanjhauli, District- Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Health and Family Welfare, Govt. of Bihar, Patna
3. The Additional Secretary, Department of Health, Govt. of Bihar, Patna
4. The Director-in-Chief, Health Services, Government of Bihar, Patna
5. The Bihar Staff Selection Commission, Patna
6. The Chairman, Bihar Staff Selection Commission, Patna
7. The Secretary, Bihar Staff Selection Commission, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha
For the Commission : Mr Lalit Kishore, Sr. Advocate
Mr S.S.Sundaram
For the State : Mr Pawan Kumar, AC to GA 9

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 10-08-2015

Some litigations do not seem to die down because they are never a satisfied soul, when exercise for filling up posts or vacancies under the State is begun.

The dispute here is in relation to appointment on the post of Pharmacist for which litigations have been going on in this Court over a period of time. One of the earliest orders brought on record by the petitioners is contained in Annexure- 2 passed in CWJC No.4302 of 1998.

An advertisement was issued in the year 1992. Again because of various reasons including litigations, nothing came out of it. Yet another advertisement was issued, which was advertisement no.1 of 1999. Some more rounds of litigations further derailed the matter. It is only now that on the basis of the directions issued by the High Court, the selections have been completed and vacancies filled up.

These 13 petitioners have approached the High Court challenging Annexure- 7 raising a grievance that since they had cleared the Pharmacist examination prior to the year 1992, they ought to have been given an opportunity for appointment under the respondents. The criteria laid down in Annexure- 7 dated 8.7.2013 limiting opportunity to such candidates, who had passed the

Pharmacist Diploma examination between 1992 and 1999, to be irrational and have sought their quashing, if not a direction for consideration of their case for appointment.

On the basis of previous direction issued in CWJC No.194 of 2012, decided on 15.3.1992 (Annexure- 5 to the writ application), Annexure- 7 came to be issued. The respondent authorities have given concession or waiver to the candidates, who became overage due to non- selection and appointment of candidates in relation to the 1st advertisement issued in the year 1992 and then the later advertisement issued in the year 1999.

Learned senior counsel, Mr Lalit Kishore representing the Staff Selection Commission submits that there is nothing irrational in Annexure- 7. There is a cogent and valid reason why the year 1992-1999 has been fixed for the candidates, who have acquired a Diploma in Pharmacy and opening have been restricted for the purposes of relaxation of age of such candidates alone. The present dispute had also been raised and squarely answered in yet another batch of writ applications, which is Annexure- 8 to the writ application and has also been relied upon by the respondents in their counter affidavit.

Attention of the Court has been drawn to paragraphs 21 and 22 where the Court had dealt with the matter in relation to the examination and the advertisement, which did not culminate into final



selection and appointment. In fact, there is a decisive finding of the learned Single Judge on page 34 of the said decision, which is running page 68 of the writ application, which clearly indicates that there was a sound basis for keeping the year 1992-1999 for passing of the Diploma in Pharmacy for eligibility. Even in that batch of writ applications, a figure of 143 candidates emerged, who had passed prior to 1992-1999. The Court did not give any leeway and left the issue for the respondents to verify as to how many of them were eligible for relaxation of age and how many were not amongst those 143 by cross-checking.

If what could not be achieved in previous round of litigation, merely because a Division Bench of this Court left it upon to the petitioners to agitate the issue in the present writ application, the rational and reasoning for fixing 1992–1999 period for qualifying the Pharmacy Diploma is a cogent and valid reason. This period relates back to the two advertisements and it is only those candidates, who had acquired Diploma in Pharmacy during the period of advertisement, which did not culminate into final selection, were required to be given relaxation in age.

Annexure- 7, therefore, has an object and purpose behind which it has been issued. The same cannot be further diluted to include each and every candidate, who claims that he was also an

applicant or who had passed the examination prior to 1992.

It is also the stand of the respondents that the appointments have already been made. The exercise is over. Vacancies have been filled up. Even if the stand of the petitioners’ counsel is accepted that there are more vacancies remaining, they will be required to be filled up in the next transaction but it cannot become a basis for a direction to fill up such posts continuously by one litigation or the other.

Writ application, therefore, has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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