

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22898 of 2013

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1. Rakesh Kumar Singh S/O Ramanand Singh R/O Vill - Mazlispur P.O. Alipur, P.S. - Mahnaar Dist - Vaishali
 2. Dhananjay S/O Dharendra Prasad Singh R/O - Kachi Pakki Road Po - Atardah, Dist - Muzaffarpur
 3. Dhiraj Kumar S/O Dharendra Prasad Sinha R/O - Kachi Pakki Road Po - Atardah, Dist - Muzaffarpur
 4. Rajesh Kumar S/O Vishwanath Choudhary R/O - Choudhary Hardware, Station Road Mahnaar Dist - Vaishali

.... Petitioner/s

Versus

1. The Union Of India Through Chairman Railway Board, Rail Bhawan, New Delhi
2. The Railway Recruitment Central Board, Rail Bhawan, New Delhi Through Its Chairman-Cum-Member Staff
3. The Secretary, Railway Recruitment Board, Rail Bhawan, New Delhi
4. The Chairman, Railway Recruitment Board, Muzaffarpur (Bihar)
5. Krishna Kanjahaiya S/O Kedar Nath Rai R/O Village Manpur, P.O. + P.S. Sonapur, Distt - Saran

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 14731 of 2014

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1. Railway Recruitment Board Muzaffarpur through its Chairman, Lichi Bagan, Muzaffarpur.
2. Union of India through Chairman, Railway Board, New Delhi.
3. Railway Recruitment Central Board, Rail Bhawan, New Delhi through its Chairman.
4. Secretary, Railway Recruitment Board, Rail Bhawan, New Delhi.

.... Petitioner/s

Versus

1. Shiv Ranjan Singh Son of Late Ram Kristo Singh Resident of F/S, CCWO Colony, Satraidhela, District - Dhanbad.
2. Sant Lal Singh Son of Vishnu Dayal Singh Resident of Village - Kampura, P.O. - Jadna, District - Vaishali, Bihar.
3. Shiv Kumar Son of Ram Prasad Choudhary Resident of Village - Bagdulhan, P.O. - Hajipur, District - Vaishali, Bihar.
4. Deep Narayan Son of Ram Prasad Choudhary Resident of Village - Bagdulhan, P.O. - Hajipur, District - Vaishali, Bihar.
5. Santosh Kumar Son of Satya Deo Narayan Resident of Village - Baghirsra, P.O. - Hajipur, District - Vaishali.
6. Rajesh Kumar Jha Son of Braj Bhushan Jha Resident of Navin Cinema Road, P.O. - Hajipur, District - Vaishali.
7. Lal Mohammad Son of Md. Hussain Resident of Village + P.O. Rayason, P.S. - Bidupur, District - Vaishali.
8. Rajendra Prasad Singh Son of Rudal Prasad Singh Resident of Village -

Fatikmara, P.O. - Desri, District - Vaishali.

9. Satish Chandra Patel Son of Ram Iqbal Singh Resident of Village - Chakjamal, P.O. - Sahdeo Bijurg, District - Vaishali.

10. Sanjit Kumar Son of Late Sarurg Prasad Resident of Village - Khusrupur Arya Samak Road, District - Patna.

11. Sudhanshu Kumar Gupta Son of Ramchandra Prasad Gupta Resident of Sarswati Vidya Mandir Road, Deoria Khas, District - Deoria.

12. Bhunath Choudhary Son of Surendra Choudhary Resident of Village + P.O. - Chand Sarai, Via - Jandaha, District - Vaishali.

13. Ashok Kumar Son of Bhagwat Paswan Resident of Village + P.O. - Baghada, P.S. - Patori, District - Samastipur.

14. Jeetendra Prasad Singh Son of Suresh Prasad Singh Resident of Village - Fatikmara, P.O. - Harpur Fatikmara, District - Vaishali.

15. Abhay Kumar Thakur Son of Ram Naresh Thakur Resident of Village - Hamapur Narayan, District - Vaishali.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 21401 of 2014

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1. Sanjay Kumar S/o Sri Raghu Nandan Prasad C/o Deepali Medical Hall, Govindpur, Fatuha, District Patna.

2. Kundan Prasad Singh S/o Sri Jagdish Prasad Singh Resident of Munna Chak, P.O. Lohianagar, District Patna.

3. Ajay Kumar Mishra S/o Sri Shyam Narayan Mishra Resident of Village / Post Majhaulia, District Darbhanga.

.... Petitioner/s

Versus

1. The Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi.

2. The Chairman-cum-Member Staff, Railway Recruitment Central Board, Rail Bhawan, New Delhi.

3. The Secretary, Railway Board, Rail Bhawan, New Delhi.

4. The Chairman, Railway Recruitment Board, Muzaffarpur (Bihar).

5. The Secretary, Railway Recruitment Board, Muzaffarpur (Bihar).

6. Ajay Kumar S/o Sri Vakil Chandra Choudhary Resident of New Kunj Colony, Post Office Rajendra Nagar, District Patna.

7. Ram Shivaji Prasad S/o Sri Saryug Mehra Resident of Ligh No. 14/481, Hanuman Nagar, Patna.

8. Nagendra Kumar Singh S/o Sri Brajnandan Rai Resident of Village Maujipur, P.O. Fatuha, District Patna (Bihar).

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 8725 of 2015

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1. Abhay Kumar Thakur Son of Ram Narain Thakur, Resident of Village - Hawarpur Narayan, District - Vaishali.

2. Jitendra Prasad Singh Son of Suresh Prasad Singh, Resident of Village - Fatikwara, P.O. - Harpur Fatikwara, District - Vaishali.

3. Rajendra Prasad Singh, Son of Rudal Prasad Singh, Resident of Village -

Fatikwara, P.O. - Desari, District - Vaishali.

4. Satish Chandra Patel, Son of Ram Eqbal Singh, Resident of Village - Chak Jormal, P.O. - Sahadei Bujurg, District - Vaishali.

5. Deep Narayan Choudhary Son of Ram Prasad Chaudhary, Resident of Bagdulhan, P.O. - Hajipur, District - Vaishali.

.... Petitioner/s

Versus

1. The Union of India, through Chairman, Railway Board, Rail Bhawan, New Delhi.

2. The Railway Recruitment, Central Board, Rail Bhawan, New Delhi, through its Chairman cum Member Staff.

3. The Secretary, Railway Recruitment Board, Rail Bhawan, New Delhi.

4. The Chairman, Railway Recruitment Board, Muzaffarpur (Bihar)

5. The General Manager, E.C. Railway, Hajipur, District - Vaishali (Bihar).

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 12577 of 2015

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1. Santlal Singh son of Vishnu Dayal Singh, Resident of village- Karnpura, P.O.- Jadhua P.S. Ganga Bridge, District- Vaishali

2. Lal Mohammad sonof Mohammad Hussain, Resident of village and P.O.- Rajasan, P.S.- Bidupur, District- Vaishali

.... Petitioner/s

Versus

1. The Union of India, through Chairman, Railway Board, Rail Bhawan, New Delhi.

2. The Railway Recruitment, Central Board, Rail Bhawan, New Delhi, through its Chairman cum Member Staff.

3. The Secretary, Railway Recruitment Board, Rail Bhawan, New Delhi.

4. The Chairman, Railway Recruitment Board, Muzaffarpur (Bihar)

5. The General Manager, E.C. Railway, Hajipur, District - Vaishali (Bihar).

.... Respondent/s

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Appearance :

(In CWJC No. 22898 of 2013)

For the Petitioner/s : M/S Shivendra Kishore, Sr. Adv., Ranjit Kumar Thakur, Adv. & Devendra Kumar, Adv.

For the Respondent/s : M/S Mahesh Prasad, Adv. & Bijoy Kumar Sinha, Adv.

(In CWJC No. 14731 of 2014)

For the Petitioner/s : M/S R. Giryaghey & Ravi Shankar

For the Respondent/s : Mr. Amar Nath Jha

(In CWJC No. 21401 of 2014)

For the Petitioner/s : M/S M.P. Dixit, Adv. and Sanjay Kumar Choubey, Adv.

For the Respondent/s : Mr. Ashok Kr. Keshri

(In CWJC No. 8725 of 2015)

For the Petitioner/s : M/S Birendra Kumar Sinha, Sr. Adv & Suresh Pd. Singh, Adv.

For the Respondent/s : Mr. Anil Singh

(In CWJC No. 12577 of 2015)

For the Petitioner/s : M/S Birendra Kumar Sinha, Sr. Adv. and Suresh Pd

Singh,Adv.

For the Respondents : Mr. Parshuram Singh,Adv.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)
Date: 14-09-2015

All these five writ petitions are connected by a common cause of action, and with consent of parties they have been heard at length for their disposal at this stage itself, and they are accordingly disposed of by this common order.

2. It appears that an Advertisement was issued by the Railway Recruitment Board for recruitment of Assistant Station Masters. This selection process consisted of three components- (i) an objective type written examination; (ii) a psychological evaluation ; and (iii) an interview(viva-voce). A panel was made for the purpose of psychological evaluation and viva-voce. They were conducted, but later the Railway Recruitment Board cancelled the said panel and its evaluation in marks. A new panel was constituted. The new panel then made psychological evaluation and interviewed the candidates. Let it be noted that there was in all 384 applicants, out of whom only 328 turned up in written examination. Upon psychological evaluation, 122 were found fit, and they were interviewed. Ultimately, a merit-panel of 69 persons was made for the 70 vacancies, there being no Scheduled Tribe candidate available. Thus, 69 persons were then



appointed. These appointments took place in the year 1999 itself. In 1999 there was a challenge before the Central Administrative Tribunal with regard to the change of interview and psychological evaluation panel and consequently the results. That was dismissed by the Tribunal. Challenge thereto before the High Court in writ proceedings also failed. Thereafter, some of the applicants, who had not been selected for appointment, filed memorandums and representations to different authorities. This continued in or about 2007. An application was filed by one of the applicants for grant of a copy under R.T.I. with regard to evaluation-sheet, which was, upon contest, ultimately supplied to him in the year 2010. Thus, one person having received his score sheet in the year 2010 then filed an application before the Tribunal, challenging his non-selection, without challenging the selection of others, because, as noted above, there were only 70 vacancies, and 69 appointments had already been made in the year 1999; one appointment could not be made because that was for reserved category for Scheduled Tribe. Therefore, while one, sought adjudication with regard to his non-selection, that could only be entertained with a prayer for unsettling someone else. That was a consequential relief which had to be sought, and there could be no adjudication on this aspect of unsettling someone when those persons were not made party. It is not that they are proper party, but they had



to be necessary party. Seeing this challenge, several persons filed different applications before the Tribunal. The Tribunal dismissed all of them on grounds of limitation and non-joinder of necessary party, except one. For some reasons, the Tribunal directed, in that one case, the General Manager, East Central Railway to look into the matter, and take a decision. Obviously, the General Manager was not the competent authority, for the selection process had been conducted by the Railway Recruitment Board, and the General Manager had no role to play and it is against that, the Railway Recruitment Board had filed one writ petition in this Court, though, in the meantime, the General Manager reviewed the matter to the best of his ability and rejected the application. Against this rejection, there are two writ petitions. This apart, from the writ petition of the Railway Board, it appears that there is a challenge in the year 2010 onwards of the selection process which was undertaken by the Railway Board in the year 1999, wherein appointments were made, and, those persons are working since 1999 till date i.e., over last 15 years. Even though the challenges are made, there is no challenge as to the persons selected. Obviously, they are necessary party, because without removing them, even if the application before the Tribunal is allowed, the applicant before the Tribunal could not be granted any relief. Thus seen, in our view, the Tribunal was not wrong in dismissing the applications, both

on the ground of limitation and on ground of absence of necessary party. At the cost of repetition, it cannot be urged that in the application before the Tribunal what was missing was proper party, for one has to keep in mind the distinction between necessary party and proper party. Necessary party are those which are likely to be affected by the adjudicatory order that is to be passed, and that too adversely. Their absence makes the proceedings not maintainable, but a proper party is a party where his presence may be necessary to facilitate the adjudicatory process, but he may not otherwise be of any consequence in relation to the relief to be granted.

3. Thus, we find no illegality in the order of the Tribunal. The writ petition of the Railway Recruitment Board has become virtually infructuous. In the facts and circumstances, these proceedings, thus stand terminated.

(Navaniti Prasad Singh, J)

BK.Roy/-A.F.R.

(Nilu Agrawal, J)

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