

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16921 of 2014

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1. Dinesh Prasad Yadav son of Radhe Prasad Yadav, resident of Vill.- Hasua Panchu, Post and Police Station- Hasua, District- Nawada
 2. Sanjay Kumar Ranjan, S/o Sri Babu Ram Singh, resident of Vill.- Saidpur Dhawa, P.O. + P.S.+ Distt.- Arwal
 3. Rajiva Kumar Mishra, S/o Sri Nikhileshwar Sharan Mishra, resident of Vill.+ P.O.- Bhagwanpur, Dist.- Vaishali
 4. Arvind Kumar S/o Ramchapit Singh resident of Vill.+P.O.- Sakkari, Dist.- Bhojpur
 5. Basant Kumar Roy S/o Late Jay Govind Roy, resident of Vill.- Yusufpur, P.O.- Khanjaha Chak, Vaya- Lalganj, Dist.- Vaishali
 6. Sanjay Kr. Soni S/o Mohan Pd. Soni, resident of At + P.O.- Obra, Dist.- Aurangabad
 7. Rohit Ranjan S/o Rajeshwar Singh, resident of Vill.- Adlu Chak Daulatpur, P.S.- Jahanadab, Dist.- Jehanabad
 8. Mantu Bharti S/o Sharda Nand Prasad, resident of Moh.- Jahanadab Road, Masaudhi, P.O. Masaudhi, Dist.- Patna

.... Petitioner/s

Versus

1. State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna
3. The Bihar Staff Selection Commission, through its Secretary, Veterinary College, Patna- 800014
4. The Chairman, Bihar Staff Selection Commission, Veterinary College, Patna- 800014

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar
Mr. Kumar Binode Bariar
For the Respondent State: Mr. Alok Ranjan, AC to GA13
For the Staff Selection
Commission : Mr. Satyabir Bharti

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 23-11-2015

There are eight petitioners before this Court. They do not seem so happy and satisfied that in these days of large scale unemployment they have an opening in life by being duly appointed in terms of exercise done by the respondent Bihar Staff Selection Commission when an examination

was held in the year 2010 known as 1st Graduate Level Combined Competitive Examination.

2. After the selection and recommendations were made by the Staff Selection Commission, appointments were made against the vacancies which were said to be 3285. Writ application came to be filed before this Court making a grievance that the statutory and Constitutional right guaranteed to physically disabled candidates with regard to reservation in public employment has been violated by the respondents. The said writ application was numbered as CWJC No.20879 of 2013 along with some other writ applications. Matter was heard on various dates and the Court came to a considered opinion that in no way right of reservation for physically disabled candidates can be ignored in matter of appointment under the State.

3. Respondent authorities deliberated on the issue and the erstwhile Cabinet of the State of Bihar took a policy decision to accommodate 49 candidates under the physically handicapped category, who were required to be recommended and appointed. The decision of the Cabinet is reflected by Notification No. 7583 dated 22.5.2015, which is Annexure-K to the supplementary counter affidavit, filed on behalf of respondents No. 3 and 4. 49 candidates were appointed against various posts and this has given a cause as well as heart-burn for the present petitioners to approach this Court.

4. The basic grievance of these petitioners is that they have better marks than some of the 49 appointed candidates. Some of those

candidates walked away with creamier and better posts or assignments and therefore, the exercise requires to be re-visited. Examples were sought to be given by the learned counsel representing the petitioners by drawing the attention of the Court to the recommendation, which is at page 30 of the writ application.

5. On the surface, the argument of the learned counsel for the petitioners is rather attractive since he is putting the dispute too simply. On a deeper look, the reason why these 49 candidates have been given, maybe a post which these petitioners are eyeing is evident from Annexure-K read in entirety.

6. The stand of the Staff Selection Commission is that since all the vacancies were more-less filled up in the first exercise and the 49 candidates under the physically handicapped category were left out, a new exercise was carried out by demanding details of available vacancies from various departments. On the exercise being completed recommendations and appointments against the vacancies so available were filled up by these 49 candidates. It is altogether different exercise of appointments in the peculiarity of the facts and has no co-relation with the earlier exercise already done, of which these petitioners were beneficiaries.

7. The Court will not be unmindful of the fact that if the Court insisted upon accommodation of the 49 candidates within the vacancies available, 49 other candidates who were already appointed would have lost their job and would have been on the road. Just to save that situation, if the Cabinet decided to make a kind of de novo recommendation and

appointment against the available posts after the completion of the exercise done earlier, these petitioners cannot eye the position occupied by the physically handicapped candidates. The decision was necessitated under the circumstances already noted in the earlier part of the order. Therefore, the grievance raised by the petitioners is based not on the correct facts with regard to their recommendations and appointments.

8. The appointments of the 49 candidates cannot be equated with the earlier selection and recommendation. They are a class or an exercise apart from the earlier exercise of appointment.

9. In view of the same, there is no infirmity in the decision of the respondents in appointing or recommending the 49 candidates against the available vacancies. No more re-exercise or re-adjustment is required to be done by interfering in the present writ application.

10. Writ application for the above reason has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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