

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6871 of 2014

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1. Jitendra Kumar Sinha, son of Sri Rabindra Nath Sinha, resident of village & P.O.- Rahui, P.S.- Rahui, District- Nalanda
 2. Navin Kumar, son of Sri Raghupati Lal, resident of village- Balat, P.S.- Rahika, District- Madhubani
 3. Ram Vinay Kumar, son of Sri Nakchandi Singh, resident of village- Parasurampur, P.S.- Paliganj, District- Patna
 4. Vijay Kumar Lal Das, son of Late Ganapati Lal Das, resident of village- Balat, P.S.- Rahika, District- Madhubani
 5. Pramod Kumar Prasad, son of Late Chandrasekhar Prasad, resident of village- Mai, P.O. & P.S.- Hilsa, District- Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Cabinet Secretariat Department, Bihar, Patna
3. The Deputy Secretary, Cabinet Secretariat Department, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar Tewari

For the Respondent/s : Mr. Subodh Kumar, AC to GP-14

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 05-01-2015 Heard the parties.

The petitioners, five in numbers, have filed the present writ petition seeking a direction to the respondents to consider their cases for their appointment on class-III and class-IV posts on regular basis with retrospective effect and further to grant them all consequential benefits.

It is not in dispute that the petitioners were appointed in the year 1988-89 without following the procedure prescribed under law. They were allowed to continue in service for sometime, but finally, by the order dated 31.08.1996 (Annexure-5), their services were terminated holding therein that their initial entry in the service itself was irregular. The petitioners, being aggrieved by the aforesaid order, preferred C.W.J.C. No.9579 of

1996 before this Court, which was finally dismissed by the learned Single Judge of this Court. Thereafter, petitioners filed L.P.A. No.100 of 1998, which was also dismissed by a Division Bench of this Court by an order dated 01.04.1998. The order of termination of service of the petitioners and order passed by the learned Single Judge were affirmed by a Division Bench of this Court.

Indisputably, the matter did not rest there. Thereafter, the petitioners filed S.L.P.(C) No.11979 of 1998, which was finally dismissed by the Hon'ble Apex Court by an order dated 10.08.1998. The order passed by the Hon'ble Apex Court has been brought on record as Annexure-6 to the writ petition by the writ petitioners themselves. However, while dismissing the aforesaid SLP, the Hon'ble Apex Court has observed that in case any appointments are being made against any vacancies, the petitioners shall be at liberty to apply and their claims shall not be rejected on the ground of age bar.

In the whole writ petition, the petitioners have not stated that any fresh selection process has been started by the competent authority of the respondent State. They have only prayed for a direction to the respondents to consider their cases for their appointment either on class-III or class-IV posts.

A detailed counter affidavit has been filed on behalf of the respondent nos.1 to 3 resisting the prayer made on behalf of the petitioners and highlighting therein that the claim of the petitioners is barred by the principles of res judicata.

After having heard the parties and taking into consideration the materials available on record, this Court does not find any good ground to issue any direction for appointment

of the petitioners either on class-III or class-IV posts. In absence of any fresh selection process the petitioners' case cannot be considered for fresh appointment in view of the observations made by the Hon'ble Apex Court. The claims raised on behalf of the petitioners appear to be completely misconceived.

Accordingly, the writ petition stands dismissed, but there shall be no order as to costs.

(Birendra Prasad Verma, J)

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