

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1131 of 2014

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1. Jainandan Kumar S/O Ram Pukar Prasad Yadav Resident Of Village Nonaura, East Champaran, P.O. Nanaura, P.S. Ghora Shahan, District East Champaran, Motihari.

2. Ashwini Kumar Sinha @ Ashwini Singh S/O Sri Bajrangi Resident Of Village Dhanasiriya, P.O. Raj Garh, P.S. Manihari, District Mirzapur (U.P.).

.... Petitioners

Versus

1. The Bihar State Power Holding Company Ltd. , Patna Through Its C.M.D., Vidyut Bhawan, Patna.

2. The C.M.D. Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Patna.

3. The DGM (Hr), Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. BIPIN BIHARI SINGH

For the Respondent/s : Mr. VINAY KIRTI SINGH

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 02-02-2015

Heard learned counsel for the parties.

2.This Court infact fails to understand as to how the petitioners will be entitled for the relief sought in this writ application, relevant portion whereof reads as follows:

“For commanding and directing the concern authority for the logical and of the selection process under the employment notice no.7/2011 for the appointment to the post of junior electrical Engineer in Bihar State Power (Holding) Company Ltd., Patna and issuance of the formal letter of appointment on the strength of the eligibility, suitability and the seniority in the merit list under their respective categories.”

3. In this regard the first and foremost to be kept in mind is that learned counsel for the petitioners does not dispute the fact that



pursuant to employment notice No.7 of 2011 the petitioners were given opportunity to participate in the interview and thereafter they were not appointed. The petitioners therefore could have at least acquired from the information under the Right to Information Act as to the fate/ result of their participation in the appointment process. Nothing however has been said, in this writ application which was filed on 13.1.2014.

4. Added to it the petitioners have also suppressed the fact that after completion of selection process of employment notice No. 7 of 2011 yet another process of appointment in the same organization, namely, South Bihar Power Distribution Company Ltd. was initiated vide Advertisement No.3 of 2013 and in which again the petitioners had appeared and while petitioner no. 1 had been selected and appointed, the petitioner no. 2 had been declared unsuccessful.

5. Thus, taking into account that no indefeasible right is vested in any candidate merely on the basis of his appearing in the selection test and in fact as per the Constitution Bench judgment of the Apex Court in the case of Shankarsan Dash v. Union of India, reported in AIR 1991 SC 1612, even on the basis of name included in the panel prepared after selection, this writ application must be held to be ill-advised and misconceived.

6. At this stage Mr. Anand Kumar Ojha, learned counsel for the respondents, in fact while also placing reliance on an order of this

Court dated 24.4.2013 in C.W.J.C.No. 18532/2013 in identical circumstances holding such writ petition to be not maintainable has produced an offer of appointment to petitioner no.1 dated 18.2.2014 pursuant to his application filed in Advertisement No. 3 of 2013. It is therefore really painful for this Court to note that petitioner no.1 even after being favoured with an offer of appointment has persisted with this writ application.

7. As a matter of fact this writ application had already stood dismissed for non-compliance of per-emptory order dated 17.1.2014 and therefore, after its being restored by an order dated 26.3.2014 by which time petitioner no.1 had already received his offer of appointment dated 18.2.2014 and therefore he ought to have safely withdrawn the writ application.

8. In any event the case of petitioner no.2 will also not merit any reconsideration because he was also an applicant in both advertisement and could not make the grade.

9. That being so, this application is wholly misconceived and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

surendra/-

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