

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15513 of 2011

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Pandav Kumar, Son of Sri Anant Sutihar, Resident of Village and P.O. Murli
Basantpur, P.S. Bangaon, District Saharsa.

.... Petitioner

Versus

1. Bihar State Electricity Board through the Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
2. Chairman, Bihar State Electricity Board, Vidyut Bhawan
3. Secretary Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
4. Joint Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
5. Secretary, Department of Personal and Administrative Reforms, Government of Bihar
6. Deputy Secretary, Department of Personal and Administrative Reforms, Government of Bihar
7. Secretary, Department of Science and Technology Government of Bihar, Patna
8. Principal, Government Polytechnic College, Purnea
9. Sri Buneshwar Prasad, Son of Sri Janki Mahto
10. Sri Prakash Kumar, Son of Late Lakshman Singh
11. Sri Naveen Kumar, Son of Vimal Thakur
12. Sri Arvind Kumar, Son of Sri Baidyanath Das
13. Miss. Rubi Kumari Daughter of Sri Vishwanath Prasad
14. Sri Alok Kumar, Son of Sri Kameshwar Thakur
15. Sri Vinay Kumar, Son of Suresh Prajapati
16. Sri Rajeev Kumar, Son of Arun Prasad
17. Sri Anil Kumar, Son of Sri Dinanath Singh
18. Md. Sarwar Alam, Son of Md. Nasriuddin
19. Sri Abhushek Kumar Rana, Son of Shambhu Sharan Ray
20. Kumar Pankaj, Son of not known to the petitioner.

All respondent nos. 9 to 10 are C/O Joint Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. AMIT KUMAR

For the Respondent/s : Mr. P.K. VERMA AAG5

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 29-07-2015

The petitioner seeks direction for appointment on the
post of Junior Electrical Engineer (General) in erstwhile Bihar State
Electricity Board (now Power Holding Company Ltd.) on the basis of

campus selection held in September-October, 2011. The petitioner further seeks quashing of the list of successful candidates issued by the Joint Secretary of the Board for appointment on the post of Junior Electrical Engineer (General).

2. The case of the petitioner is based on the premise that he ought to have considered appointment under Extremely Backward Class category and not under Backward Class category.

3. It is relevant to point out that this Court vide order dated 12.10.2011 directed that one post of Junior Engineer in the category of Extremely Backward Class shall not be filled up till disposal of the present application.

4. During course of hearing, notice was issued to all the selected candidates under Extremely Backward Class category, who were made respondent nos. 9 to 20.

5. The Board and some other private respondents have filed their counter affidavits.

6. The case of the Board in short is that the College recommended the name of the petitioner under the Backward Class category and as such he was considered against the said category. It is the further case of the Board that the last person selected under B.C. category, namely Ravi Kumar Magadhiya, had obtained 67.67 % marks and the petitioner had obtained only 66.24% marks.



7. Before I consider the rival submission of the parties, it would be necessary to notice the facts of the case. The Department of Science and Technology conducted combined examination for selecting of students for admission in different Polytechnic College in the State of Bihar. The petitioner appeared in the 2006 Combined Examination and was declared successful and admitted in Polytechnic College, Purnia in 2006-09 Batch. The petitioner passed the 1st year examination securing 70.40% marks. He passed the 2nd year examination securing 72.23% marks and 3rd year examination securing 933 out of 1500 marks and total 1483 out of 2340 marks.

8. The caste of the petitioner was entered as Barhi caste under the B.C. category in the year 2006 in the college register as per the Government resolution at the time of his admission. It may be apposite to state that at the relevant time Barhi caste was within B.C. category (Annexure-2) and was listed at serial no. 18 of Annexure-II of Resolution 1993. Later on, in the year 2009, Barhi caste, which was originally included in the Backward Class category was deleted and placed under Extremely Backward Class category as per the Government Resolution dated 12.06.2009 on the basis of recommendation of the State Backward Commission. In the year 2009, the Bihar State Electricity Board held a Campus Selection for



appointment of Junior Electrical Engineers (General) in all Government Polytechnic Colleges and Engineering Colleges. As per the convention, they used to ask the Principal of the College to forward the names of the students of 3rd year along with their mark-sheets. Thereafter, the Board used to select the candidates of all the categories on the basis of percentage of marks obtained by them. The Principal of Polytechnic College, Purnia forwarded the name of the petitioner along with his mark-sheet showing him as belonging to Backward Class Category on the basis of the initial entry in the College in the year 2006. The caste of the petitioner was reckoned by the Board in the Backward Class Category. The last person selected as per the number of seats under Backward Class Category had secured 67.67 % marks and the petitioner had secured 66.24% marks was not selected. The petitioner does not have any issue with the same and as the candidates selected in B.C. category.

9. The case of the petitioner is that he should have been considered as an Extremely Backward Class Category, in which category he had the highest marks. The persons selected in the aforesaid category had all lesser marks than the petitioner. The petitioner assets that at the time of interview, he requested the concerned officer of the Bihar State Electricity Board to indicate his category as of being Extremely Backward Class Category in view of



2009 Resolution, but the latter insisted that he should fill up the form indicating the same category of class, which was entered in the College register. The petitioner thereafter met the Principal of the College, who after seeing the Government notification assured that he will rectify the mistake and would issue necessary communications clarifying that he belongs to Extremely Backward Class Category. The petitioner even obtained the caste certificate of Extremely Backward Class Category from the Circle Officer on 28.07.2011, which was duly forwarded by the Principal of the college vide letter no. 519 dated 02.09.2011 through FAX.

9. The case of the petitioner is that the appointment was notified much after 16.09.2011. The petitioner submits that name of one Abhishek Kumar Rana (respondent no.9) figured at serial no.33 in the Extremely Backward Class Category and also selected for appointment, was expelled in the 3rd year examination, leading to cancellation of his appointment.

10. It is relevant to state here that as per the respondent, one Pankaj Kumar was issued appointment letter on 02.09.2011 in place of Abhishek Kumar Rana and the appointment was notified on 10.09.2011, much prior to order dated 12.10.2011 of this Court to keep one post under Extremely Backward Class Category vacant.

11. According to the petitioner one Anil Kumar was expelled and as such in any view of the matter one such post remained vacant.

12. I have heard the counsel for the parties. It is evident from the materials on record that the petitioner was not selected for appointment, as the Principal of the College forwarded his name under Backward Class Category in the year 2011, in which the last candidate selected had a trifle higher mark than him at 66.67% as against petitioner's 66.24%. It is not in dispute that had the candidature of the petitioner would have been forwarded under Extremely Backward Class Category. He would have been first amongst the EBC candidates to be appointed in view of the marks secured/obtained in the examinations.

13. The issue which comes for consideration is whether the petitioner is himself responsible for not being adjudged under Extremely Backward Class Category, and/or if it is the fault of respondents, whether he should suffer on account of their mistake.

14. There is no dispute to the fact that petitioner belongs to Barhi caste (Carpenter), which was within Backward Class Category in the year 2006 when he took admission in the Government Polytechnic College. The caste of the petitioner in college register was entered accordingly. On 12.06.2009, the



Government took a decision to place it in the Extremely Backward Class Category on the basis of recommendation of State Backward Commission. After 12.06.2009, the petitioner admittedly fell within the Extremely Backward Class Category. Both the respondents, namely, the Principal of the College as well as the Bihar State Electricity Board ought to have known that Barhi caste would now fall under Extremely Backward Class Category and the petitioner admittedly belonged to “Barhi” caste. They cannot pertain ignorance of the law. The Principal of the College erred in forwarding the name of the petitioner under Extremely Backward Class Category, though he cited his caste as Barhi caste in 2011.

15. As the caste of the petitioner was shown Barhi, the respondents ought not to have considered his case under Backward Class Category. On 02.09.2011, the Principal of the College, realizing the mistake forwarded a letter along with the caste certificate issued by the Circle Officer on 28.07.2011 showing the petitioner belonging to Extremely Backward Class Category.

16. Furthermore, according to the petitioner, he was made to enter his category as Extremely Backward Class Category in the year 2011 at the time of interview, as per the category (Backward Class) mentioned in the College register in the year 2006, though he insisted that after 2009, he falls under Extremely Backward Class

Category.

17. In view of discussions made above, I find that the class category of the petitioner has changed in the year 2009 from BC to EBC in view of the Government resolution dated 12.06.2009. It was equally both for the Government College and the Board to have known that after 12.06.2009 Barhi caste would not fall under Backward Class Category. There is no misrepresentation on behalf of the petitioner.

18. Situated thus and taking into consideration the aforesaid facts, I hold that it was unfair on the part of the Board to treat him under Backward Class Category while selecting the candidates for appointment to the post of Junior Engineer (General). The petitioner should not suffer for fault of the authorities involved in the selection. As one of the selected candidate under Extremely Backward Class Category, namely, Anil Kumar (respondent no.17) has been removed, one post would fall vacant. As this Court way back on 12.10.2011 had directed to keep one post under Extremely Backward Class Category vacant, the respondents would consider the case of the petitioner for appointment against the said vacant post. The matter is remanded to the concerned authority of the Board (respondent nos. 1 and 2), (now Power Holding Company Limited) to reconsider the case of the petitioner for appointment to the post of

Junior Engineer (General).

19. With the aforesaid observation, this writ application stands disposed of.

(Samarendra Pratap Singh, J.)

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