

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4527 of 2015

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1. Dharmendra Ojha, son of Sri Vinay Kumar Ojha, resident of village Deokuli, P.S. Brahampur, District Buxar
 2. Avinash Kumar Singh, son of Sri Ramashish Singh, resident of village Purainee Khurd, P.S. Rajpur, District Buxar
 3. Manish Kumar, son of Sri Mohan Prasad, resident of village Mushafirganj, P.S. Buxar, District Buxar
 4. Shubh Narayan Singh, son of Sri Ramashish Singh, resident of village Chak, P.S. Buxar (Muffasil), District Buxar
 5. Navneet Kumar Singh, son of Sri Premchand Singh, resident of village Banarpur, P.S. Buxar (Muffasil), District Buxar
 6. Abhinav Kumar, son of Sri Rajendra Prasad, resident of Alma Computer Civil Lines Buxar, P.S. Buxar, District Buxar
 7. Muntan Kumari, daughter of Sri Rambhajan Choudhary, resident of Mushafirganj, P.S. Buxar, District Buxar
 8. Amit Kumar, son of Sri Akshay Lal, resident of Gajadharganj (Ward No.11), P.S. Buxar, District Buxar
 9. Sandesh Kumar, son of Sri Kedar Nath Singh, resident of village Bijouli P.S. Rajpur, District Buxar
 10. Suman Prakash Singh, son of Sri Nathun Singh, resident of village Patej, P.S. Dhansoi, District Buxar
 11. Akhilesh Kumar, son of Sri Narsingh Prasad, resident of village Lalganj, P.S. Buxar (Muffasil), District Buxar
 12. Manorama Kumari, daughter of late Ramjanam Prasad, resident of Mushafirganj, P.S. Buxar, District Buxar
 13. Hemlata Kumari daughter of Sri Sadabriksh Ram, resident of Bilayat Hussain Path, Musafirganj, P.S. Buxar, District Buxar
 14. Deepak kumar, son of Sri Vinod Kumar, resident of village Baida, P.S. Murar, District Buxar

.... Petitioners

Versus

1. The State of Bihar
2. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna
4. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Sone Bhawan, 5th Floor Virchand Patel Path, Patna
5. The District Magistrate, Buxar
6. The District Manager, State Food Corporation, Bihar

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Prashant Kumar, Adv.
For the Respondent/s : Mr. Rajesh Singh, GP16
For the BSFC : Mr. Shailendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 24-03-2015

Heard learned counsel for the parties as with regard to the

following relief prayed in this writ application:



“I. For issuance of a writ in the nature of certiorari or any other appropriate writ for quashing the office order contained in Memo No. 11683 dated 13.11.2014 issued under the signature of the Managing Director, Bihar State Food and civil Supplies Corporation Ltd., Govt. of Bihar, whereby and whereunder within Bihar State Food and Civil Supplies Corporation Limited (hereinafter referred to as B.S.F.C. only) all Executive Assistants working within the District Units for all purposes as such were engaged in procurement centre, T.P.D.S. godowns, C.M.R. godown, have been removed from the services of B.S.F.C. with effect from 29.11.2014, who were earlier engaged by the District Magistrate from the panel list prepared by the District Administrative Reforms Mission Society (hereinafter referred to as D.P.S.M. only).

II. For issuance of a writ in the nature of mandamus or any other appropriate writ for issuance of a direction upon the respondents to engage the petitioners once again as Executive Assistants within the B.S.F.C. on the same terms and conditions. Upon which earlier they were working in light of the directives of the Corporation Ltd. contained in letter no. 8997 dated 26.11.2011 and letter no. 9159 dated 4.12.2011, prior to their removal w.e.f. 29.11.2014 from the service of the B.S.F.C. as the new terms and conditions being introduced vide aforementioned memo no. 11683 dated 13.11.2014 are quite arbitrary, illegal and unsustainable in the eye of law.



III. For holding that the petitioners having been continued in the service of B.S.F.C. as Executive Assistants since the year 2011 are entitled to be continued in service on earlier terms and conditions considering their experience and seniority within BSFC, whereas office order contained in memo no. 11683 dated 13.11.2014 issued by the B.S.F.C. cannot be made applicable with respect to the petitioners.”

Learned counsel for the petitioners while assailing the order passed by the Managing Director of Bihar State Food and Civil Supplies Corporation dated 13.11.2014 has submitted that some of the norms laid down therein by the Managing Director are most unreasonable. In this regard he points out that the condition imposed for depositing of Rs.25,000/- before allowing to join the post of Executive Assistant is wholly unreasonable. He further submits that in view of the impugned norms laid down by the Managing Director the petitioners, who were already working on contract basis in the Corporation, would be edged out because such norms now lays down for only fresh selection for the purposes of contractual engagement on the post of Executive Assistant.

This Court has carefully gone into the whole scheme of engagement on the post of Executive Assistant and on its perusal it does not find any of the condition laid down therein to be



unreasonable. The petitioners at best were only continuing on contractual engagement and therefore, they were to continue only till the period of contract. If therefore a new norms has been laid down which is more transparent, more objective and also in keep with the mandate of Articles 14 and 16 of the Constitution of India, this Court cannot interfere with the same only because it some way affects continuance of the petitioner. As noted above, the petitioners have been engaged only on contract basis and at best they could have a protection of continuance till the period of contract. Today after four to five months of the order of the Managing Director dated 13.11.2014 if the petitioners still are left with any period as per their contract they may definitely represent to the authorities to continue for the period till such contract would elapse but they cannot question the new norms under which the engagement has to be made by the Corporation on the post of Executive Assistant.

This Court also does not find any unreasonableness in imposing the condition of depositing of a sum of Rs.25,000/- by the persons, who may now be appointed as an Executive Assistant in the Corporation on contract basis. Such Executive Assistant having been given power to deal with the finance and fund of the Corporation if a security amount is sought to be kept by the



Corporation at the time of their engagement, that again cannot be said to be unreasonable. In that view of the matter, this Court does not find any reason to interfere with the order of the Managing Director of the Corporation, as contained in Annexure 3/1, laying down the norms for engagement of the Executive Assistant.

At this stage learned counsel for the petitioner submits that the petitioners have apprehension that when the post of Executive Assistant would be advertised and selection would be gone into they may not be given due consideration. For their earlier period of engagement. Such apprehension, however, is wholly unfounded as there is nothing on record to establish the same.

Be that as it may, the petitioners are not disqualified under the new scheme as per the office order, contained in Annexure 3/1, and thus they are equally entitled to be considered for their engagement alike any other candidate on the same terms and conditions. In that view of the matter this Court would only observe that if the petitioners also apply pursuant to the advertisement issued in terms of the aforementioned impugned policy decision issued by the Managing Director of the Corporation, their cases will also be considered with other eligible candidates strictly in accordance with law and on the same norms

which would be made applicable to any other candidate.

At this stage learned counsel for the petitioners has also tried to highlight that the petitioners have better experience on account of past working on the post of Executive Assistant and therefore, some weightage should be given to them in fresh selection for the experience acquired by them.

This however cannot be allowed for a simple reason that in that case the petitioners will be getting the premium of the earlier contractual appointment for which there was no such stipulation in the earlier engagement. Nonetheless if the petitioners compete with the fresher and have a better experience of working on the post in question, they can definitely establish the same in the process of selection to be conducted either on the basis of written test or on the basis of interview or on the basis of both.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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