

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1622 of 2014

IN

Civil Writ Jurisdiction Case No. 14835 of 2014

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Manoj Kumar Ray, son of Ram Dayal Ray, Resident of Lekha Nagar, Cantt Road
Khagual, Police Station- Khagaul, District - Patna.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Additional Secretary- cum- Director (Administration), Jail and Reforms
Service, Bihar, Patna.
3. The Inspector General, Jail and Reforms Service, Bihar, Patna.
4. The Secretary, Bihar Staff Selection Commission, Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant : Mr. Rajesh Ranjan, Advocate
For the Respondents 1 to 3 : Mr. Ajay Bihari Sinha, S.C. -19
Mr. Suryakant Kumar, A.C. to S.C.-19
For the respondent no.4 : Mr. Prabhat Kumar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 22-04-2015

Bihar Staff Selection Commission- the 4th respondent
herein, issued advertisement in October, 2013 inviting applications
for the posts of Jail Warden. The participation was confined only to

Ex-servicemen and trained Home Guards. The last date for submission of application was mentioned as 11.11.2013. The appellant was working as driver in the Indian Army by that time. He too submitted an application, stating that he is going to retire from service with effect from 30.11.2013. He participated in the written test. However, later on, his candidature was not considered on the ground that he was not an ex-serviceman as on the last date of submission of application.

Feeling aggrieved, the appellant filed CWJC No.14835 of 2014. He pleaded, *inter alia*, that the Indian Army passed orders in AO 65/82 through which the members of the Army were permitted to take part in the recruitment in civil service, 12 months prior to the date of their retirement.

The learned Single Judge dismissed the writ petition through order dated 03.11.2014. Hence, this appeal.

Heard Sri Rajesh Ranjan, learned counsel for the appellant, Sri Ajay Behari Sinha, learned Standing Counsel -19, for the respondents 1 to 3, and Sri Prabhat Kumar Singh, learned counsel for the respondent no.4.

The advertisement is very clear in its purport that a candidate must be either an ex-serviceman or a trained Home Guard. Admittedly, the appellant was not an ex-serviceman as on

the date of submission of the application. It is only with effect from 30.11.2013, he retired from service.

It is no doubt true that the Indian Army passed an order in 1982 enabling its members to take part in the examination conducted for civil posts, 12 months before their retirement. That permits the candidates to apply even while in service. The State Government can be requested to permit the participation, not only the ex-servicemen, but also those who are likely to retire within one year, before the last date of submission of the application. No decision was taken in that behalf. Once the advertisement is clear that the recruitment is meant for ex-servicemen, the Army order relied upon by the appellant does not come to his help. The learned Single Judge has taken correct view of the matter.

We do not find any basis to interfere with the order passed by the learned Single Judge. The appeal is, accordingly, dismissed.

Interlocutory applications, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Sudhir Singh, J)

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