

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6941 of 2014

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1. Ajab Lal Paswan Son Of Late Tunni Lal Paswan Resident Of Village Manjhiyara, P.O. Bindi, P.S. And District Banka

2. Triloki Mahto Son Of Late Guhi Mahto Resident Of Village Leelabal, P.O. Dudhari, P.S. And District Banka

3. Bhagwati Prasad Mishra Son Of Buli Prasad Mishra Resident Of Village And P.O. Samukhiya, P.S. And District Banka

4. Barun Kumar Yadav Son Of Late Sohan Prasad Yadav Resident Of Village Belutikar, P.O. Jogdiha P.S. And District Banka

5. Nityanand Mitra Son Of Late Kameshwar Pd. Mitra Resident Of Babutola Banka, P.O. And P.S. Banka District Banka

6. Prem Kumar Ghosh Son Of Late Gopal Chandra Ghosh Resident Of Village Lakri-Kola, P.O. Manjira, P.S. Banka, District Banka

.... Petitioner/s

Versus

1. The State Of Bihar

2. The Chief Secretary, Government of Bihar Old Secretariat, Patna

3. Finance Commissioner, Govt. Of Bihar, Patna

4. The Commissioner, Bhagalpur Division Bhagalpur

5. District Magistrate, Banka, District Banka

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Achintya Anand

For the Respondent/s : Mr. Uma Shanker, GP 4

Mr Karandeep Kumar, AC to GP 4

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 24-06-2016

The six petitioners have jointly filed the present writ application for a direction upon the respondents, especially the District Magistrate, Banka to issue appointment letters to them in view of the fact that their names figures in the panel prepared by the District Magistrate, a copy of which is Annexure- 2 to the writ application.

In short, an advertisement was issued in the year 2004 for exercise of appointment or regularization on the posts of Class IV.

It is the case of these petitioners that their name did figure in the list prepared. Appointments have come to be made but their right has been ignored. It is for this reason that the writ application has been filed for a direction.

The State has filed a counter affidavit. In the counter affidavit they take a stand that the preparation of the panel on which a right has been claimed by the petitioners has not remained without controversy and litigation. Matters have travelled to the High Court earlier and after a detailed hearing and consideration, a learned Single Judge passed an order on 30.1.2012 in a batch of writ applications, a copy of which has been annexed as Annexure- A to the counter affidavit of the State. The sum essence of the decision of the learned Single Judge is that the panel, which was prepared by the erstwhile District Magistrate, namely, Sri Rashid Ahmed Khan, was not only fallacious but even contrary to the guidelines issued by the General Administration Department. He on his own had introduced certain parameters, which were not in existence or were not talked about in the directive issued by the General Administration Department. The learned Single Judge came down heavily upon the conduct of the then District Magistrate and even ordered taking of some kind of departmental action against him.

The outcome of the said decision contained in Annexure- A is that the 2004 panel was knocked down on the basis of

the directive of the learned Single Judge. A new panel of 225 people was prepared and in the new panel only name of petitioner no.2 figured at serial 140. The rest of the petitioners vanished from the new panel.

If the name of other petitioners did not figure in the new panel, there is no occasion for them to be considered or appointed on the basis of 2004 list. So far as petitioner no.2 is concerned, stand of the State is that since he belonged to the BC category and in the BC category, roster point did not reach the merit position, he could not be appointed and there is no other reason or mischief behind it.

If this is where the facts stand then the Court cannot go behind the judicial directive and adjudication contained in Annexure-A, which formed the basis for appointments, which have come to be made. The petitioners, therefore, have no case on the basis of the previous panel of the year 2004, which is non-existent and stood quashed by virtue of the judicial order.

Writ application, therefore, has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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