

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3836 of 2016

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1. Yogesh Ranjan, Age about 25 Years, S/o Shri Ram Sahay Roy
 2. Lokesh Ranjan, Age about 25 years, S/o Sri Ram Sahay Roy, both are Resident of Sourangpur Yadav Nagar Lalu Path, New Bypass, Ram Krishn Nagar, Khemnichak, P.O.- G.P.O., P.S. Kankarbagh, District Patna.

.... Petitioners

Versus

1. The Bihar State Power (Holding) Company Ltd., through its Chairman-cum-Managing Director, Vidyut Bhawan, Patna.
2. The Chairman-cum-Managing Director, Vidyut Bhawan, Patna.
3. The Director (Administration), Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Patna.
4. The General Manager, Human Resources Department, Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Patna.
5. The Managing Director, Bihar Power Distribution Company Ltd., Vidyut Bhawan, Patna.

.... Respondents

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Appearance :

For the Petitioners : Mr. Mohit Raj, Advocate
Mr. Krishna Sinha, Advocate
Mr. Durga Narayan, Advocate
For the respondents : Mr. Anand Kumar Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

CAV JUDGMENT

Date: 26-05-2016

The two petitioners have jointly filed the writ application for a direction upon the respondents Bihar State Power (Holding) Company Ltd., Patna for appointment on the posts of I.T. Manager since they went through the process of selection and were shown to be part of the list of selected candidates. However, now the Bihar State Power (Holding) Company Ltd. has decided not to go ahead with the appointment on the post of I.T. Manager and have decided to re-advertise, therefore, the writ.



2. An Employment Notice No.02/2015 was issued by the Bihar State Power (Holding) Company Ltd., Patna, i.e., Annexure-1. The three posts in questions notified were identified as Chief Data Base Administrator, Data Base Administrator and I.T. Manager. We are concerned with the selection of I.T. Manager.

3. It is the case of the petitioners that the petitioners went through the process of selection and a list of selected candidates on the three posts was also notified with regard to Chief Data Base Administrator and Data Base Administrator in terms of Annexure-3. The list of candidates shown to have been selected for the post of I.T. Managers has been brought on record as Annexure-4. Despite the above notification and selection having been carried out by the Bihar State Power (Holding) Company Ltd., they did not appoint the petitioners on the post of I.T. Managers and surprisingly a notice contained in Annexure-5 was issued which indicates that the examination conducted for appointment on the post of I.T. Manager has been cancelled due to unavoidable reasons.

4. While the writ application was pending consideration, certain further development has taken place which is that a fresh advertisement for recruitment on the post of I.T.

Manager has been published as Employment Notice No.03/2016. This Annexure-6 has been brought on record along with I.A. No.3319 of 2016. Petitioners want quashing of the Employment Notice in addition to the original prayer.

5. The Court directed the Bihar State Power (Holding) Company Ltd. to file their counter affidavit and explain the reason for their action of not acting upon the list of selected candidates and as also the reason for issuing a fresh advertisement for the selection of I.T. Manager.

6. The first counter affidavit filed on behalf of the respondent- Bihar State Power (Holding) Company Ltd. was cursory and did not have any supporting documents as annexures as to the reason for such a decision. The Court directed the Bihar State Power (Holding) Company Ltd. thereafter to supplement their counter affidavit with supporting materials.

7. Counsel representing the Bihar State Power (Holding) Company Ltd. tried to explain to the Court the importance of the post of I.T. Manager and how the I.T. Managers are going to form the backbone for providing better service in matter of distribution, transmission, customer care and disaster recovery centres. Since the Bihar State Power (Holding) Company Ltd. is going for a big revamp and trying to set up and develop an

I.T. structure which will fulfill the future requirements, the quality of man power to be hired and recruited as I.T. Managers, is vital to a successful exercise in this regard.

8. They do not deny that an exercise was carried out on the basis of parameters laid down in Advertisement No.02/2015 but after the initial process of written examination was completed and they started scrutinizing and verifying the various documents supplied by the candidates, many infirmities started emerging. Since weightage was required to be given even for work experience to the extent of 20%, complaints were received by the Bihar State Power (Holding) Company Ltd. about the authenticity or the validity of the experience certificates which have been used by the candidates showing fulfillment of the eligibility. The selection committee, therefore, decided to call the candidates for verification of certificates and documents for awarding of marks for experience and authenticity of the supporting documents. Out of the 407 candidates who were called for verification, 14 did not turn up. 80 of the candidates were disqualified because it was found that they had less experience than required as well as many of them failed to produce the work experience in the relevant field. 8 candidates had wrongly mentioned their category with regard to caste etc.



9. The selection committee in this background decided to check and cross check the experience certificates of the candidates and they started experiencing all kinds of resistance for non-cooperation on behalf of the candidates with regard to their certifications and experience. Many of the so called institutions or establishments from where experience certificate had been obtained were found to be either dubious or not worthy of any consideration. Obviously without proper co-operation from the candidates as well as the establishments from where experience certificate had been obtained, it became impossible for the Bihar State Power (Holding) Company Ltd. to give weightage on work experience in a fair and dispassionate manner. It was in this background that the Bihar State Power (Holding) Company Ltd. decided not to go ahead with the recruitment of I.T. Managers and it was also decided that some change in the parameters is also required as the earlier experience with regard to weightage on work experience proved to be a nightmare if not meaningless as all kinds of documents were used to show experience.

10. The Court after hearing the parties and examining the materials on record comes to a considered opinion that in normal course of things if a process of selection has been undertaken and candidates have undergone the process and have



been shown to have been selected, a kind of legitimate expectation does arise in favour of such candidates. Though law is also well settled that merely because a candidate has found his name in the select list, it does not give a right for appointment as a matter of course. However, certain leeway has to be given to an employer to take a call and Courts are loath to interfere, as a routine. However, since such appointments are also within the public domain, no authority performing such duty can be permitted to take a decision based on extraneous materials or consideration which per se looks arbitrary or irrational.

11. So far as the present case is concerned, if the respondent-Bihar State Power (Holding) Company Ltd. experienced what they did in the process of selection of I.T. Managers and now there are adequate materials on record as to the reasons for inviting fresh applications for the post of I.T. Managers, which in the opinion of the Court are cogent and valid, the Court will not compel the Company to go ahead with the earlier exercise and be saddled with all kinds of persons who may not be desirable to be selected keeping in mind the objective and importance of the post.

12. In view of the above, the writ application is required to be dismissed. The petitioners can very well participate,

if they fulfill the eligibility by responding to the new advertisement
which is in place now.

(Ajay Kumar Tripathi, J.)

SanjayKumar/-

AFR/NAFR	NAFR
CAV DATE	18.05.2016
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