

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.70 of 2016 IN Civil Writ Jurisdiction Case No. 16921 of 2014

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1. Dinesh Prasad Yadav, son of Radhe Prasad Yadav, resident of village - Hasua Panchu, Post and Police Station- Hasua, District- Nawada
 2. Sanjay Kumar Ranjan, Son of Sri Babu Ram Singh, resident of village - Saidpur Dhawa, P.O. + P.S. + District - Arwal
 3. Rajiva Kumar Mishra, Son of Sri Nikhileshwari Sharan Mishra, resident of Village + P.O. - Bhagwanpur, District - Vaishali
 4. Arvind Kumar, Son of Ramchapit Singh, resident of village + P.O.- Sakkari, District - Bhojpur
 5. Basant Kumar Roy, son of Late Jay Govind Roy, resident of Village - Yusufpur, P.O.- Khanjaha Chak, Vaya- Lalganj, District - Vaishali
 6. Sanjay Kr. Soni, Son of Mohan Pd. Soni, resident of at + P.O. - Obra, District - Aurangabad
 7. Rohit Ranjan, son of Rajeshwar Singh, resident of Village-Adlu Chak Daulatpur, P.S.- Jehanabad, Dist.- Jehanabad
 8. Mantu Bharti, son of Sharda Nand Prasad, resident of Mohalla Jehanabad Road, Masaudhi, P.O. Masaudhi, District - Patna

.... Appellants

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna
3. The Bihar Staff Selection Commission, through its Secretary, Veterinary College, Patna- 800014
4. The Chairman, Bihar Staff Selection Commission, Veterinary College, Patna- 800014
5. Manoj Kumar son of not known to the appellant at present posted at Secretariat Patna.
6. Amitabh Vilochan, son of not known to the appellant presently posted as Secretariat Assistant.
7. Chandan Kumar son of not known to the appellant presently posted as Secretariat Assistant
8. Ashok Kumar Mishra son of not known to the appellant, presently posted as Secretariat Assistant.
9. Jai Prakash Sharma son of not known to the appellant, presently posted as Supply Inspector.
10. Ujjawal Kumar Choubey, son of not known to the appellant, presently posted as Secretariat Assistant.
11. Vinay Kumar, son of not known to the appellant presently posted as Block Panchayati Raj Office, through Principal Secretary, General, Administration Department, Government of Bihar.
12. Ravindra Kumar Yadav, son of Sri Shreeram Yadav, Village Dhobaham Bazar, District Bhojpur.
13. Sanoj Kumar Mandal, son of Sri Ram Lakhan Mandal of B-166, P.T.S., N.T.P.C, Kahalgaon, District Bhagalpur.
14. Vinay Kumar Singh, son of Sri Raj Jit Singh, C/o Jagdeep Narayan Rai, Mini Market, Purani Chak, District Patna.
15. Haridwar, son of Mukeswar Thakur, K/6, Sidheswar Path, Chitragupta Nagar,



Kankarbagh, District Patna

16. Markandaya Prasad Singh, son of Sri Harihar Singh, Village Sonhar, P.O. Thanwa, District Rohtas.
17. Uday Kumar Sanu, son of Sri Vijay Prasad, Dairy Farm, North of Bank of India, Ramchandrapur, Biharsharif, District Nalanda
18. Karunandan Puroshottam, son of Suresh Singh, village Amethi Khurd, P.O. P.S. Mills Gopalganj District Gopalganj
19. Amit Kumar, son of late Badri Nath Prasad, C/o Sri Buariknath Prasad, P.O. Haban Bazar, Distt- Bjojpur.
20. Akash Kumar, S/o Sri Sudhir Kumar Lal, Vill- Badhanuddin Chak P.O. & PS. Barh, Dist- Patna.
21. Md. Rizwan Alam S/o Sri Md. Hanif, C/o Abdul Mannan at Azadnagar Ward No. 19, Araria, Distt. Araria.
22. Rishikesh Kumar, S/o Sri Giridhar Gopal Sah, P.O. + P.S. Asarganj, Dist- Munger.
23. Daleshwar Saw S/o Sri Chhatilal Saw, Vill + P.O. Topa Kaliyari (B-Type) Distt- Ramgarh (Jharkhand)
24. Bipin Kumar S/o Sri Maneshwar Pandey, Vill Barks Mohammadpur, P.O. Kobnisma, P.S. Bakhtiyarpur, Distt- Patna.
25. Murari Kumar S/o Sri Raja Ram Kumar, At Itawa, P.O. Dumari, Distt- Begusarai.
26. Dhananjay Kumar Tiwari S/o Sri Radha Mohan Tiwari, Vill + P.O. Shitalpur, P.S. Daudpur, Distt. Saran.
27. Pankaj Bharti S/o Sri Gopal Prasad Singh, Vill + P.O. Bishunpur Bande, Via Bhagwanpur, Distt. Vaishali.
28. Rakesh Kumar S/o Sri Kishore Prasad Singh, C/o Sidheshwari Prasad Sikeshak Colony, Bus Stand Rajgir, District - Nalanda.
29. Ranjeet Kumar Verma S/o Late Rameshwar Prasad Das at- Chitragupt Nagar, Polytechnic Distt- Purnea.
30. Satish Kumar S/o Sri Suryadeo Prasad C/o Manoj Kumar Pathak Near Ashok High School, P.O. R.S. P.S. Delha, Dist- Gaya.
31. Shambhu Prasad Singh S/o Sri Chandan Prasad Singh Vill- Bhoisar, P.O. Ekchhari P.S. Kahalgaon (Rasulpur) Distt- Bhagalpur.
32. Raghubir Prasad S/o Srikailash Prasad Singh C/o Shyam Babu Yadav, Bari Patan Devi Road, Attachaki Gulzarbagh, Distt- Patna.
33. Alok Kumar, S/o Late Ramakant Roy, vill- Sikandarpur, P.O. Rajaura, Dist- Begusarai.
34. Prabhat Kumar, S/o Sri Sawaliya Prasad Singh, Vill+P.O. Dumaigarh, P.S. Manjhi, Dist- Saran.
35. Md. Shabbir, S/o Md Jamil Akhtar, Vill+ P.O. Basahiya Tola, Gadhwa, P.S. Piprahi, Distt. Sheohar.
36. Sanjay Kumar Chakrawarti, S/o Sri Suresh Prasad, EPF Staff, Quarter No. 40, Type-3, Block F, 15th Main Road, Annanglo West Chennai.
37. Ravi Ranjan, S/o Sri Triyogi Narayan Sharma, Vill- Sitalpur, Sharma Tola, P.O. Sitalpur, P.S. Dighwara, Dist- Saran.
38. Dharmjeet Kumar Pal, S/o Sri Shyam Kishore Bhagar, Vill- Brampur (High School Road) P.S. + P.O. Barampur, DIST- Buxar.
39. Gopal, S/o Sri Mahendra Prasad Graien, Nalanda Colony (East Indra Nagar) Kankarbagh, Dist- Patna.
40. Satyendra Narayan Singh, S/o Sri Indrajeet Singh, Vill- Khanchi P.O. Chhewari, P.S. Ramgarh, Dist- Kaimur.
41. Rajesh Kumar Singh, S/o Sri Hira Prasad Singh, C/o Ramendra Narayan Singh, Koshi Colony, Bathrahi, House No. F/31, Arariya, D ist- Araria.
42. Manish Kumar, S/o Ram Sohawan Singh, Bhawar, N/o Durga Chowk, Road



No. 15, Indrapuri, P.O. Keshri Nagar, Dist- Patna.

43. Daya Shankar Singh, S/o Sri Hira Singh, R/o Villa Jagdishpur Bazar, P.O. Dangri, Via Mohania, dist- Kaimur.

44. Abhay Kumar Prasad, S/o Raj Kumar Prasad, R/o Vill- Piroja, P.S. Ekangar Sarai, Dist- Nalanda.

45. Shasi Kant Prasad Mandal, S/o Late Tilakdhari Prasad Mandal, resident of Ajijghat, Khandakmore (Nala Par) P.S. Biharsharif, Dist. Nalanda.

46. Shashi Bhusan Choudhary, S/o Sri Tirath Prasad Chaudhary, R/o Vill- Harikurwa, P.O. Lakhorla, Via- Sarwan, Dist. Deoghar, Jharkhand.

47. Sujeet Kumar S/o Sri Shiv Prasad Singh, R/o Vill- Pipara (Khurd) P.O. Babhani, P.S. Karghar, Dist. Rohtas.

48. Ramanand Yadav, S/o Sri Dharam Nath Yadav, resident of Vill+ P.O. Sikatia, Dist- Siwan.

49. Sanjeet Kumar Sinha, S/o Kaushal Kishore Prasad, resident of Vill- Manikchak, P.O. + P.S. Deepnagar, Dist- Nalanda

50. Jitendra Singh, S/o Sri Ram Singhasan Mehta, R/o Vill- Rampur, P.O. Jaipur, Dist- Rohtas.

51. Ganesh Mandal, S/o Late Jhalakdeo Singh, R/o Vill Nirpur, P.O. Natani Bazar, P.S. Sakurabad, Dist- Jehanabad.

52. Kamlesh Kumar, S/o Sri Ramashish Singh, resident of Vill- Dhabpar, P.O. Kalyanpur, P.S. Makdumpur, Dist- Jehanabad.

53. Pramod Kumar, S/o Late Dev Barat Sharma, C/o Ashok Kumar Ram, old Mahila Probationer, Home Oberai Road, P.O. Hatia, Dist- Ranchi, Jharkhand.

.... Respondents

With

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Civil Writ Jurisdiction Case No. 10762 of 2016

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Anand Prakash, son of Rajendra Prasad, resident of Maheshuan, P.S.- Bhabhua, District - Kaimur, Bhabua.

.... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.

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

3. The Principal Secretary, General Administration Department, Govt. of Bihar, Old Secretariat, Patna.

4. The Bihar State Staff Selection Commission through its Secretary, Veterinary College, Patna-14.

5. The Chairman, Bihar Staff Selection Commission, Veterinary College, Patna-14.

.... Respondents

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Appearance :

(In LPA No.70 of 2016)

For the Appellants : Mr. Dinu Kumar

Ms. Ritika Rani

Mr. Arvind Kr. Sharma

Mr. Deepak Kumar, Advocates

For the Respondents : Mr. Alok Ranjan, AC to GA 13

For the Commission : Mr. K.K. Upadhyay

Mr. Chandra Bhushan Das, Advocates

For Res. Nos. 5,6, 7, 8, 9, 10, 11, 12, Mr. Rajendra Pd. Singh, Sr. Advocate

13, 14, 16, 21, 22, 23, 24, 26, 27, 28, Mr. Rajeev Kr. Singh, Advocate



29, 31, 34, 37, 38, 39, 40, 41, 42, 43, Mr. Manish Kr No.13, Advocate
45, 48, 49, 50, 51

Mr. Rohit Kumar, Advocate
Mr. Jitendra Kumar Bharti, Advocate
Mrs. Nilu Kumari No. 7, Advocate
Mrs. Kanchan Jha, Advocates
Mr. Arun Kumar, Advocate
Mr. Bipin Kumar, Advocate

For the Intervenors : Mr. Surendra Kr. Singh, Advocate
Ms. Tulika Singh, Advocate
Mr. Avinash Sekhar, Advocate

(In CWJC No.10762 of 2016)

For the Petitioner : Mr. Surendra Kr. Singh, Advocate
Ms. Tulika Singh, Advocate
Mr. Avinash Sekhar, Advocate

For the State : Mr. Nasrul Hoda Khan, SC 1
Mr. Md. Naushadulzzoha, AC to SC 1

For the Commission : Mr. K.K. Upadhyay
Mr. Chandra Bhushan Das, Advocates

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 02-12-2016

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 23rd of November, 2015 in CWJC No. 16921 of 2014 whereby the writ application was dismissed holding that claim for adjustment of the candidates amongst the physically handicapped category for allocation of the service in order of the merit as per their option, does not warrant interference at this stage.

3. Bihar State Selection Commission (hereinafter referred to as “the Commission”) published Advertisement No. 110/2010 inviting applications for 1569 posts in eight services having different pay scales. The table of posts and the services as mentioned in the advertisement read as under:-



(Details of department-wise requisition received for various posts for first graduate level combined competition examination 2010)

Serial no.	Name of department	Name of Post	Post code	Pay scale	Minimum education qualification	SC	ST	EBC	BC	BC Women	General	Total
1	2	3	4	5	6	7	8	9	10	11	12	13
01	General Administration Department	Secretariat Assistant	01	Pay band 9300-34800 grade pay 4200 (5000-8000) old	Graduate	166	10	186	124	31	517	1034
02	Industry department	Industry Extension officer (State level)	02	„	Commerce/ Economics/ mathematics/statistics minimum marks 45%	13	01	14	10	02	41	81
03	Food & consumer protection Department Bihar	Supply Inspector Cadre State level	04	5000-8000	Graduate	03		04	02	01	10	20
04	Industry Department	Junior Statistics Assistant	07	„	Graduate in Commerce/ economics/mathematics/statistics(minimum marks 45%)	41	07	47	30	16	125	266
05	SC & ST Welfare Department	Block SC & ST Welfare officer cadre State level	05	„	Graduate in Arts / science/ commerce	25	01	25	18	04	70	143
06	Labour resources Department	Labour welfare officer (Supervisor)cadre State level	06	„	Graduate	01	02		01		02	05
07	Labour resources Department	Woman Society Ayojika (only for women) cadre State level	07	Pay band 5200-20200 grade pay 2400	Graduate	04	01	02		01	05	13
08	Labour resources Department	Statistics Computer cadre State level	08	„	Graduate in Math /Statistics / Mathematics	01	01	02	02		01	07
					Total	254	22	280	187	55	771	1569

On 29.12.2012, another 3285 vacancy in another 21 services was notified prior to main examination by Bihar Staff Selection Commission in pursuance of the first advertisement. The said vacancy position is as under:-

Adv. No. 110/2010

Vacancies and eligibility for different posts



SL NO.	NAME OF THE POST	Additional qualification	No of post	Post						
				UNR	SC	ST	BC	MBC	WBC	TOTAL
1	Secretariate Assistant	No	1100	550	176	11	132	198	33	1100
2	Industry Extension Officer	Commerce/ Economics/ mathor with statistics 45% marks in Graduation	81	41	13	1	10	14	2	81
3	Junior statistical Assistant	Commerce/ Economics/ mathor with statistics 45% marks in Graduation	20	10	3	0	2	4	1	20
4	Supply Inspector	No	266	125	41	7	30	47	16	266
5	Block SC and ST welfare officer	No	143	7	25	1	18	25	4	143
6	Labour welfare Officer (supervising)	No	5	2	1	1	1	0	0	5
7	Women society organizer (Only for women)	No	13	5	4	1	0	2	1	13
8	Sankhyiki Sanganak	Graduation with Economics/Math/ Statistics	7	1	1	1	2	2	0	7
9	Librarian	Library Science in Graduation and Requisite knowledge of Computer Operating	1	1	0	0	0	0	0	1
10	Social organizer (Supervising) State level	No	38	18	6	3	4	5	2	38
11	Accountant Cum Cashier (State Level)	Requisite Merit c-commerce/math/ computer subject knowledge	3	2	0	0	0	1	0	3
12	Child Protection officer	Priority to Graduate in Child psychology	76	38	12	1	9	14	2	76
13	Accountant – cum- store keeper (state level)	Requisite Merit-commerce /math / computer subject knowledge	61	31	9	1	7	11	2	61
14	Superintendent (State level)	Priority to Graduate in law	23	12	3	0	3	4	1	23
15	Deputy Superintendent (State level)	Priority to Graduate in law	3	2	0	0	0	1	0	3
16	Junior Statistical Assistant	Graduatrion with commerce/Economics/ math or statistics	16	8	2	1	2	3	0	16
17	Block Panchayat Raj officer	No	142	71	22	1	14	28	6	142
18	Labour Enforcement officer (Supervising)	No	78	28	10	12	6	10	12	78
19	Co-operative extension officer (Block level to State level)	No	692	297	110	52	49	153	231	692
20	Circle Inspector and Equal Grade	No	266	133	43	2	34	48	8	266
21	Junior Statistics Assistant / Block / Statistical Supervisor / Investigator (State level)	Graduation Pass with commerce / Economics / math or statistics and matric pass in math.(not in Commercial Math)	251	126	40	2	30	45	8	251
		Total post	3285	1571	521	98	351	615	129	3285

4. Admittedly, the number of posts and the departments were increased to 3285 and 21 respectively. The appellants are physically handicapped candidates and were appointed against the posts reserved for physically handicapped in terms of Clause 6 (iii) of the advertisement



making the policy of reservation applicable to the posts advertised. The appellants were given the service which they had opted in order of merit.

5. However, subsequently, a writ application was filed before this Court by the visually impaired candidate making a grievance that all the posts for physically handicapped have not been categorized such as for visually handicapped and hearing impaired candidates. This Court directed the Commission to examine the said contention. In pursuance of the observations of this Court, 25 additional posts were created for the physically handicapped candidates i.e. in addition to 24 vacant posts for physically handicapped already advertised but not filled. Thus 49 physically handicapped candidates from amongst visually handicapped and hearing impaired candidates were appointed.

6. The grievance of the writ applicants before the writ Court was that they have obtained more marks than the candidates who have been appointed subsequently in terms of the observations of this Court when visually handicapped and hearing impaired candidates were appointed. The services have to be allocated to all the physically handicapped category as per their option and merits. Since the appellants are more meritorious than the candidates who have been appointed subsequently, therefore, they are required to be readjusted in the services as per their options already given.

7. A revised list of recommendations of physically handicapped candidates has been produced. Such list consists of 123 candidates. A perusal of the list of the revised recommendation shows, 71



candidates were initially recommended i.e. 34 visually handicapped, 11 hearing impaired and 26 orthopedic handicapped. In pursuance of the observations of this Court, result was revised when 28 candidates were taken in service, 29 candidates were shifted and there was no change in respect of 14 candidates. Because of this exercise, 49 candidates were removed from services. But by virtue of subsequent developments, letters of appointments were issued to 49 candidates who have been permitted to rejoin.

8. The grievance of the appellants is that the service option has to be given as per merit whereas, 49 candidates who were permitted to join because of the subsequent decision cannot be given the services of their own choice without ignoring the merit of the other candidates. Thus, we find that it would be in the interest of justice, if fresh options of services are sought from all the appointed candidates against the physically handicapped category and that the candidates should be assigned services/departments as per their option and merit. We find that in a process of this kind, when physically handicapped category has been appointed with another department, they have to be allocated different services (departments) as per their merit and option. Some candidates who have been permitted to join later and rank lower in merit cannot be given services only because; at one stage some of the candidates were given different service, in order of merit at that stage.

9. This process may lead to allocation of services of some of



the candidates which may carry lesser pay than they have been allocated now but that be necessary to meet the ends of justice and equality in the process of appointment. Since there would be fresh allocation, we order that no recovery shall be made on the basis of such readjustment or reallocation but the candidates will be assigned services on the basis of their merit and the option already given. This will meet the ends of justice as no candidate lower in merit cannot be given option of better service having better pay scale than the candidates higher in merit. Needful should be done within two month. If any candidate has been left from the appointment process, he will be appointed and given seniority form the day, all the candidates have been given seniority but would not be entitled to any benefit of arrears of pay. Such candidate would be paid salary from the date of joining only.

10. The Letters Patent Appeal and the Writ Petition are accordingly disposed of.

(Hemant Gupta, ACJ)

B.T/-

(Vikash Jain, J)

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	10.12.2016
Transmission Date	N.A.

