

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1313 of 2015

In
Civil Writ Jurisdiction Case No. 7275 of 2015

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1. Chandramouli Kumar, S/o Late Ram Sharan Singh, R/o Vill. & P.O.- Bhadru, P.S.- Nagar Nousa, District Nalanda.
 2. Dharmendra Sharma, S/o Sri Ramanand Sharma, R/o Vill.- Mania, P.O. Manjhgay, P.S.- Sangrampur, District Munger.
 3. Khagesh Kumar, S/o Sri Jagoshwar Yadav, P.O.- Dudhaila, P.S. Sonbarsa Kacheri, District- Saharsa.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, General Administrative Department , Bihar, Patna.
4. The Principal Secretary, Department of Agriculture, Bihar, Patna.
5. The Bihar Staff Selection Commission, Bihar, Patna.
6. The Secretary, Bihar Staff Selection Commission, Bihar, Patna. null null

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rikesh Sinha
For the State : Mr. Akhilesh Kumar Sinha, A.C. to S.C.19
For Staff Selection : Mr. K.K. Upadhyay
Mr. C.B. Das

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

3 22-12-2016

I.A. No.5746 of 2015

The interlocutory application has been filed for condoning the delay of 20 days in filing the appeal.

On a consideration of the facts and circumstances mentioned in the application and upon hearing learned counsels for the parties, the delay in filing the appeal is condoned.



I.A. No.5746 of 2015 is, accordingly, disposed of.

Heard learned counsels for the parties.

The appeal is directed against the order dated 22.05.2015 passed, in C.W.J.C. No.7275 of 2015, by a learned single Judge of this Court, by which the writ application has been dismissed as having no merit after holding that the advertisement in question does not violate Articles 14 and 16 of the Constitution and the petitioners form different class as they are looking for an opening for the first time vis-à-vis those who are already working may be on contract on the said post over a period of time who form a different class.

The short facts of the case are that while the process for framing of the rules relating to recruitment and service condition for the Agriculture Co-ordinator was going on, in view of the immediate need for filling up 4391 created posts of Agriculture Coordinator, the process for appointment on contractual basis was initiated in which the maximum age was fixed at 65 years as on 01.01.2008, and the qualification was fixed as Agriculture Graduate from any recognized Agriculture University/College/Institution. The said contractual appointment was to be made on the basis of merit list prepared as per the marks obtained at the stage of Graduation and on experience in the



Agriculture Department, Government of Bihar, for which 70 and 30 marks respectively had been allotted. Thereafter, the contractual appointments had been made. Subsequently for regular appointment after the framing of the 2014 Rules, an advertisement dated 29.04.2015 was published in which the qualification for appointment has been fixed as Graduate in Agriculture Science/Animal Husbandry/ Fisheries/Agriculture Engineering/Horticulture/Forestry/Dairy Technology from a recognized University/College or Institute. The minimum and maximum age has been prescribed as per the Government policy. It was further provided in the advertisement that those who had been appointed as Agriculture Co-ordinators on contract basis would be given the benefit of age relaxation for appearing at the first examination.

The claim of the writ petitioners arises out of the grant of age relaxation to the Agriculture Co-ordinators appointed earlier on contract basis. It is submitted that if the Government had permitted the eligibility for contractual appointment as now exists in the Rules and in the present advertisement, then the petitioner-appellants also would have been eligible for such contractual appointment and thus also eligible for benefit of age relaxation, for which they have now become age barred.



It is also submitted that the writ petitioners have worked as Subject Matter Specialist in the State Government for three years on contract basis and have the qualification for being appointed as Agriculture Coordinator as per the 2014 Rules if they are given the benefit of age relaxation. Accordingly, it is the claim of the writ petitioner-appellants that they are also entitled to the same benefit as the contractual Agriculture Coordinators.

The aforesaid contention of the writ petitioner-appellants was considered by the learned single Judge and the same has been rejected on the ground that there was a nexus and object to be achieved in providing such a concession, because such persons worked or are working in that capacity under the State and it would be unfair that they be disassociated and not given an opportunity to participate in the selection process, merely because they have become over age in the meantime, whereas the writ petitioner-appellants are a class of people who have never had any occasion to work in the capacity of Agriculture Co-ordinator in the State and thus they cannot claim the same benefit.

Learned counsel for the appellants has reiterated the submissions as made before the learned single Judge and so also learned counsel for the State.

The entire proposition of learned counsel for the



appellants is based upon if and but of their having been selected as Agriculture Co-ordinator on contract basis and they having been given the same benefit of age relaxation if the qualification for such contractual appointment had been the same as now.

It is, thus, sought to be emphasized that the whole problem has arisen on account of the fault of the respondent-State in not fixing the proper criteria for contractual appointment and, therefore, injustice has been caused to the writ petitioner-appellants.

We are unable to accept such submissions of learned counsel for the appellants regarding contractual appointments on the posts of Agriculture Coordinator. When the said posts were already created and were existing it was found sufficient to employ Agriculture Graduates against the said posts and accordingly the appointment on contract basis was done. The Government at that stage when the Rules had not come into force had tentatively fixed such qualification for contractual appointment. The fact that subsequently under the Rules the qualifications fixed for Agriculture Coordinator are such that the writ petitioner-appellants are also in possession of the same can make no difference in the matter. They cannot claim any right on the basis of a hypothetical situation that if the same qualification



had been fixed earlier then they would also have got an opportunity for appointment. It is not known whether they would or would not have succeeded when such appointment was made even then on the basis of merit.

In the above circumstances, the appointment on the post of Agriculture Coordinator on contract basis on the first occasion appears to be quite reasonable and does not violate the right of equality under the Constitution of India. The appellants certainly cannot claim any parity with such appointees in the regular recruitment process.

We thus find no reason to differ with the view expressed by the learned single Judge.

The appeal is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Arun Kumar, J)

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