

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.388 of 2014
Arising out of
Miscellaneous Jurisdiction Case No. 975 of 2013

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1. The Bihar State Staff Selection Commission Through its Secretary, Patna
2. Mr. Parsuram Mishra, Son of not known to the Petitioner, The Secretary, Bihar State Staff Selection Commission, Patna

.... Respondents/ Appellants

Versus

1. Shambhu Prasad Singh, Son Of Late Brij Lal Singh, Resident Of Village - Bahadurpur, Police Station - Bakhtiyarpur, District – Patna

Petitioner / Respondent 1st set

2. The State Of Bihar Through The Collector Patna Namely Mr. Sharban Kumar Son of not known to the petitioner
3. Arvind Tiwary, Son of not known to the petitioner, The Additional Collector (Revenue), Patna
4. Mr. Afat Ahmed, son of not known to the petitioner, The Deputy Collector Land Reforms, Barh, Patna
5. Mr. Krishna Bajpei, son of not known to the petitioner, The Sub - Divisional Officer, Barh, Patna
6. Mr. Anil Kumar Chaubey, son of not known to the petitioner, The Circle Officer, Bakhtiyarpur, Patna

.... Respondents 2nd set / Respondents

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Appearance :

For the Appellant/s : Mr.
For the Respondent/s : Mr. Rajesh Kumar Singh, Mr. Anil Kumar Singh and Mr. Manoj Kumar

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 01-08-2016

The order dated 10th May, 2012, the subject matter of MJC No. 975 of 2013 is under challenge in the present letters patent appeal.

The Court has called upon the Principal Secretary, Government of Bihar, under whose instruction advertisement was issued, to appear in Court along with the Chairman of the Bihar State Staff Selection

Commission.

We have examined the order which led to such a direction, i.e. in CWJC No. 10343 of 2007, as also various other orders passed in MJC No. 975 of 2013 including direction for granting age relaxation.

The respondent-applicant herein was working as Amin on daily wages in Patna Collectorate for the period from 1.2.1989 to 31.10.1990. The assertion of the applicant is that his case is required to be considered for regular appointment. Reference is made to an order dated 21st October, 2005 passed in CWJC No. 5033 of 2000 wherein the State Government was directed to fill up the vacant posts of Amin. Since the claim of the applicant was not considered for appointment, though the Collector has requested the Secretary of the Staff Selection Committee for fresh advertisement, the writ application was filed. In the said writ application, the learned Single Judge found that even there was a direction to fill up the vacant posts but such direction has not been complied with on account of procedural wrangling. Therefore, the direction need to be issued for compliance with due promptitude.

After going through the records, we find that the applicant claims right of consideration for appointment to the post of Amin for which directions have been issued to advertise the posts including the

conditions of appointment.

The question is as to whether the post of Amin are intended to be filled and on what eligibility conditions, the decision has to be of the State Government. There cannot be any direction to issue an advertisement to fill up the vacant posts and to specify the eligibility conditions. Such matters fall within the exclusive domain of the State Government. It is for the State Government to send requisition for appointment to the Commission to fill up the posts and the conditions of eligibility in accordance with law.

Therefore, we dispose of the present Letters Patent Appeal with liberty to the State Government to issue fresh advertisement, if any, and to fix such eligibility conditions as it finds appropriate if it decides to fill up the vacant posts of Amin.

The appeal is disposed of accordingly.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

mrl.

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.08.2016
Transmission Date	N.A.