

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4090 of 2014

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Bineet Jha @ Bineet Kumar Jha S/O - Sri Mahakant Jha R/O - Village - Rampur
Uday, P.S. - Bahara, District - Darbhanga

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Home Department, Government Of Bihar, Patna
3. Principal Secretary, Finance Department, Government Of Bihar, Patna
4. Principal Secretary, General Administration Department, Government Of Bihar, Patna
5. Joint Secretary Cum Director (Administration), Department Of Home, Government Of Bihar
6. The Inspector General, Jail And Reform Services, Government Of Bihar, Patna
7. The Secretary, Bihar Staff Selection Commission, Patna

.... Respondent/s

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Appearance :

For the petitioner :	Mr. Lalan Kumar Singh
For the respondents :	Mr. Manish Dhari Singh
For the B.P.S.C.:	Mr. Prabhat Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 15-02-2016

Heard learned counsel for the parties.

The question raised by the petitioner in the present writ application is not new in its content and submission. Such issue was raised by similarly placed candidates, who failed to make it to the post of Jail Warden as per Advertisement No. 01 / 2013.

Petitioner failed in the physical test, but while an exercise for such selection was still going on, with regard to yet another exercise, a new notification or rule came into place, giving exemption from physical test to the categories belonging to Ex-servicemen or Home Guards. Petitioner was looking for similar kind

of exemption.

The Court had occasion to deal with such matter in yet another writ application, which was the case of Narendra Kumar & others versus State of Bihar and others, i.e., C. W. J. C. No. 22102 of 2013, decided on 10.02.2014. The Court after giving a detailed hearing had opined as under:

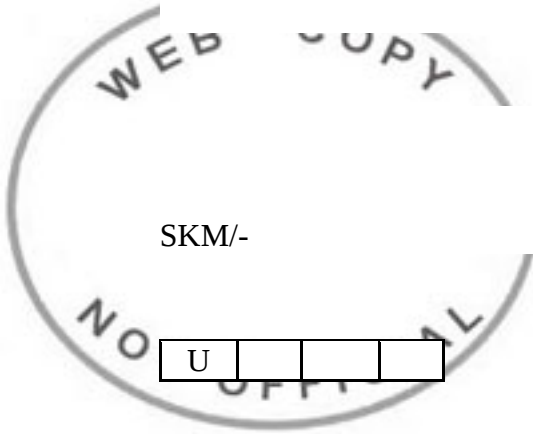
“On the face of it the submission of the counsel for the petitioner did look attractive. However, on a clear stand taken by the respondents that the terms and conditions of the notification dated 4.9.2013 will apply to the Advertisement No.10 of 2013 dated 12.10.2013 and it is a prospective notification and cannot relate back to the previous advertisement for which exercise has been completed in terms of the requirement prevalent at the relevant time. A prospective amendment for dilution or waiver of conditions cannot be permitted to relate back and if it happens, the entire selection process will be topsy-turvy as well as create many a litigations if mixing of two different advertisements and selections are permitted.

There is force in the contention or stand taken by the respondents in this regard. The requirement of physical fitness being stricter for applicants of Advertisement No.1 of 2013, the subsequent notification cannot be utilized for diluting those rigorous of requirement in a manner befitting them and adding to their advantage. In the opinion of the Court, therefore, the reason for non- selection of these petitioners are valid reasons and does not suffer from any vice.”

For the reasons indicated above, the prayer of the petitioner stands negated. He cannot be appointed on the post of a Jail Warden, since he failed to qualify in the physical test, which was

mandated in Advertisement No. 1 of 2013.

Writ application is dismissed, accordingly.



(Ajay Kumar Tripathi, J)

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