

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.732 of 2016

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Md. Imteyaz Alam son of Md. Khurshid Alam, Resident of Village- Adampur, P.S. Manjha, District -Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of General Administration, Govt. of Bihar, Patna.
2. The Secretary, Bihar Public Service Commission, (Bailey Road), Patna.
3. The Joint Secretary cum controller of Examinations, Bihar Public Service Commission, Bailey Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhakar Singh
For the State : Mr. PRASHANT PRATAP- GP6
Mr. Lala S N Raes, AC to GP 6
For the BPSC : Mr. Sanjay Pandey

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 03-03-2016

Writ application was filed by the petitioner when the respondent Bihar Public Service Commission (in short BPSC) did not publish his result of 56-59 Combined Competitive (Preliminary) Examination. As per the petitioner, he applied in terms of the advertisement. He was issued admit card and sat for the examination. Results were declared but his result was withheld.

2. Respondents were directed to file counter affidavit and explain as to why BPSC did not declare the result of the petitioner. The reason provided in the counter affidavit is indicated in para 6, 7 and 8. The said paragraphs are reproduced herein below:

“6. That it is stated that the Commission had



published Advertisement on 02.09.2014 inviting applications from the suitable candidates under 56th, 57th, 58th and 59th Common Combined (Preliminary) Competitive Examination 2014 (hereinafter referred to as the “Examination”) till 5 PM on 15.10.2014. Further, by way of an important notice dated 26.09.2014, the last date of submission of application form was extended up to 27.10.2014 till 5 PM, and finally extended up to 7/11/2014 till 5 PM.

Copy of the Advertisement published on 01.09.2014 is annexed herewith and marked as Annexure-A to this Counter Affidavit.

7. That it is stated that the case of the present petitioner is that he made application pursuant to the said Advertisement and was allotted roll number 118290. In Column-5 of his application form, he has mentioned his date of birth as 31.-7.1973. In Column-14, he has mentioned that he belongs to General (01) category. As per conditions mentioned in Clause-6 of the Advertisement with respect of age limit, his date of birth, i.e., 31.07.1973, his age as on 01.08.2010 (cut off date for General Category) is 37 years 01 day. Thus, the petitioner became overage by one day and his application has been rejected on the ground of being overage.

Copy of the application form of the

petitioner is annexed herewith and marked as Annexure-B to this Counter Affidavit.

8. That it is submitted that apparently the candidature of the petitioner was considered and his candidature was rejected on the ground of being overage. That is why the name of the petitioner figured in the list of ineligible candidates.

Copy of the list of ineligible candidates is annexed herewith and marked as Annexure-C to this Counter Affidavit”.

3. Submission of the counsel for the petitioner thereafter is that the petitioner had obtained certain information under RTI well before the advertisement was issued and by the information which he was provided, he did not feel that his overage is coming in the way of his participation. Further right was created in favour of the petitioner when BPSC issued admit card and allowed him to sit in the preliminary examination and now BPSC cannot resile from the position.

4. Submissions are erroneous including the submission that there was no clear cut off date for calculation of date of birth. The reason for rejection of the claim of the petitioner is his being overage. Relevant date for calculation of the age is 01/08/2010, which is

evident from Clause-6 of the advertisement. So far as participation and issuing of admit card is concerned, preliminary examination is not an examination for selection. It is examination for elimination. If the petitioner had been permitted to participate in the main examination, which formed the basis for such selection, may be he could have made an arguable case for consideration. But since petitioner's case has been rejected at the threshold after preliminary examination itself, he cannot derive benefit of an omission committed by some clerical staff of the BPSC in issuing the admit card in his favour.

5. In view of the above, no mandamus can be issued in favour of the petitioner for publication of the result of the preliminary examination.

6. Writ application is dismissed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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