

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4910 of 2016

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1. Nitish Kumar Son of Ganauri Rajak, resident of New Arfabad Colony, Near Dr. Arun Kumar Sinha, Gaighat, Gulzarbagh, District - Patna - 800007 (Bihar).
 2. Ravi Bhushan Kumar Son of Ram Swarup Prasad, resident of Sultanpur, P.O. Vijaypur, District - Patna – 804451 (Bihar).
 3. Vijay Kumar Pandey Son of Barmeshwar Pandey, resident of village/Post - Parsia, District - Buxar – 802111 (Bihar).
 4. Sriman Narayan Son of Sri Shambhu Sharan Pandey, resident of Madan Ji Ka Hata, Pakri Arrah, Post - Arrah, District - Bhojpur (Bihar).
 5. Pawan Kumar Son of Arun Kumar, resident of Saraswati Sadan, Mohan Nagar, Near Brahman High School, Chhapra, District - Saran (Bihar).
 6. Yash Pal @ Yash Pas Singh Son of Sri Bidya Bhushan Singh, resident of Quarter No. 31 (B), Khagaul Road, Gulzarbagh, Patna (Bihar).

.... Petitioners

Versus

1. The Union of India through the Secretary, Ministry of Labour and Employment, Government of India, New Delhi - 110001.
2. The Central Provident Fund Commissioner, Employee Provident Fund Organization, Ministry of Labour and Employment, Government of India, Bhavishya Nidhi Bhawan, 14 - Bhikaiji Cama Place, New Delhi - 110066.
3. The Regional Provident Fund Commissioner-1 (HRM), Employee Provident Fund Organization, Ministry of Labour and Employment, Government of India, Bhavishya Nidhi Bhawan, 14 - Bhikaiji Cama Place, New Delhi 110066.
4. The Regional Provident Fund Commissioner-1, Employees Provident Fund Organization, Regional Office, Bhavishya Nidhi Bhawan, 'R' Block Road No. 6, Patna (Bihar).

.... Respondents

5. Mukund Kumar Son of Satyendra Singh, Resident of Chhauriya, Post - Belchhi, District - Patna - 80310 (Bihar).
6. Abhishek Anand Son of Sri Vibhav Shankar Pandey, Resident of Nadwan, Post - Nadwan, District - Patna 804453 (Bihar).
7. Ankit Kumar Son of Pawan Kumar Mehta, Resident of Nakhsh Pind, Patna

City, Post - Begampur, District - Patna 800009 (Bihar).

8. Satya Prakash Son of Gyan Prakash Sharma, Resident of Lalimli, Motakkarudon, Post- Begampur District - Patna 800009 (Bihar).

9. Rajeev Ranjan Dubey Son of Sheo Narayan Dubey, Resident of West of New Police Line, Ramnagar, Chandawa, Arrah, District - Bhojpur (Bihar).

10. Shruti Daughter of Sri Diwakar Singh, Resident of Gol Bangala, Railway Colony, Quarter No. 271-C, Sonpur, District - Bhojpur (Bihar).

11. Alok Raj Son of Shashi Kant Kumar, resident of Belbanwa, Motihari, East Champaran - 845401 (Bihar).

12. Ravindra Kumar Singh Son of Ashok Singh, Resident of Village/Post Maulapath, Dist Saran (Bihar).

13. Ritesh Anand Son of Sri Surya Nath Tiwary Resident of Nyay Nagar, Old Police Line, Maulabad, Arrah District - Bhojpur - 802301 (Bihar).

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Gautam Bose, Sr. Advocate Mr. Rohit Mishra, Advocate
For the Respondent/s	:	Mr. Rajeev Kumar Verma, Sr. Advocate Mr. Prashant Sinha, Advocate

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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: 08-08-2016

Heard learned counsel for the parties.

2. The challenge in the present writ application is to an order dated 3rd of November, 2015 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short “the Tribunal”) in O.A. No. 050/00044 of 2014, whereby an Original Application filed by the petitioners was dismissed.

3. The challenge in the Original Application is to the reduction of the vacancies notified as 1867 to 1139 vide Annexure 2 of the post of Social Security Assistants.

4. The learned Tribunal dismissed the Original Application finding that reduction in the vacancies has occurred on account of the discrepancies between different regions in implementation of roster system. The vacancies were reduced before the final result was published. Therefore, the Tribunal rightly found that the reduction in the vacancies cannot be termed as arbitrary or illegal. Having said so, the Tribunal proceeded to hold that reduction of vacancies from 1867 to 1139 is difficult to understand as it is not small change, therefore, the Tribunal expressed hope that the matter would be re-examined carefully.

5. It is admitted that the selection process was in two parts; first the written test and then skill test. The petitioners appeared in the written test as well as skill test but before publishing the result the number of vacancies has been reduced.

6. It is well settled that mere submission of application or even appearing the name of a candidate in the selection list does not confer any right to seek appointment. The number of vacancies which are required to be filled up is an administrative decision which



may vary from time to time. Since the number of vacancies were reduced keeping in view the discrepancies in the roster system, the petitioners who have yet not qualified the examination process cannot be said to have any right to claim appointment against the vacancies notified earlier. Even in case, the petitioners have qualified in skill test it will not confer any enforceable right in favour of the petitioners. Reference may be made to a recent judgment of the Supreme Court reported in the case of Kulwinder Pal Singh and another V. State of Punjab and others, A.I.R. 2016 Supreme Court 2281, wherein the Court held to the following effect :

“11. It is fairly well-settled that merely because the name of a candidate finds place in the select list, it would not give him indefeasible right to get an appointment as well. The name of a candidate may appear in the merit list but he has no indefeasible right to an appointment (vide Food Corporation of India and Ors. v. Bhanu Lodh and Ors.,(2005) 3 SCC 618 : (AIR 2005 SC 2775); All India SC & ST Employees’ Association & Anr. v. A. Arthur Jeen & Ors. (2001) 6 SCC 380 : (AIR 2001 SC 1851) and Union of Public Service Commission v. Gaurav Dwivedi and Ors. (1999) 5 SCC 180 : (AIR 1999 SC 2137).

12. This Court again in the case of State of Orissa & Anr. v. Rajkishore Nanda and Ors. (2010) 6 SCC 777 : (AIR 2010 SC 2100, paras 13, 15), held as under:

“14. A person whose name appears in the select list does not acquire any indefeasible right of appointment. Empanelment at the best is a condition of eligibility for the purpose of appointment and by itself does not amount to selection or create a vested right to

be appointed. The vacancies have to be filled up as per the statutory rules and in conformity with the constitutional mandate.

16. A select list cannot be treated as a reservoir for the purpose of appointments, that vacancy can be filled up taking the names from that list as and when it is so required...”

13. In *Manoj Manu and Anr. v. Union of India & Ors.* 2013 (10) SCALE 204: (2013) 12 SCC 171 : (AIR 2014 SC (Supp) 927), it was held that merely because the name of a candidate finds place in the select list, it would not give the candidate an indefeasible right to get an appointment as well. It is always open to the government not to fill up the vacancies, however, such decision should not be arbitrary or unreasonable. Once the decision is found to be based on some valid reason, the court would not issue any mandamus to government to fill up the vacancies. As noticed earlier, because twenty two other candidates were declared successful by the Supreme Court pertaining to the selection of the years 1998, 1999, 2000 and 2001 as Civil Judges (Junior Division), they were to be accommodated, as rightly resolved by the Administrative Committee in the meeting dated 06.07.2011. The three resultant vacancies of the year 2007- 2008 stood consumed with the joining of the said seventeen candidates and the same could not be filled up from the select list of that year. The decision of the Administrative Committee observing that the three resultant vacancies stood consumed is based on factual situation arising there and cannot be said to be arbitrary.”

7. In view of the well settled principle of law that even the selection does not confer any enforceable right to seek appointment, the petitioners, who have not qualified, cannot be

permitted to make any grievance in respect of the reduction of the vacancies.

8. In view thereof, we do not find any merit in the present writ application. The same is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Narendra/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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