

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14970 of 2012

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Arvind Kumar Ray, S/O Choudhary Prasad Ray, R/O Village- Chouki
Niyamatpur, P.O.- Champanagar, P.S.- Nathnagar, District- Bhagalpur
..... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Personnel and Administrative Reforms Department, Govt. of Bihar, Patna
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
3. The Commissioner, Bhagalpur Division, Bhagalpur
4. The Regional Deputy Director of Education, Bhagalpur, District- Bhagalpur
5. The District Establishment Committee through its Chairman, Bhagalpur
6. The Collector-Cum-District Magistrate, Bhagalpur

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinay Raj

For the Respondent/s : Mr. Dinbandhu Singh GP-9

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

8 19-04-2016 Heard counsel for the petitioner as well as learned
appearing for the State.

Petitioner prays for quashing of the order contained in
Memo No. 173, dated 03.04.2012, issued by the District
Magistrate, Bhagalpur, whereby the claim of the petitioner for
inclusion in the panel for appointment on Class IV post in the
Bhagalpur District has been rejected.

It is the case of the petitioner that his inclusion in the
panel has been rejected primarily on the ground that he was
overage.

Learned counsel submits that almost similar cases came

for consideration before this Court in case of Md. Shafi Alam and others Vrs. State of Bihar and others, which was disposed of on 20.01.2011, in C.W.J.C. No. 7995 of 2004, the relevant extract of which is quoted herein below for easy reference:-

“So far as petitioner No. 1 is concerned, he is shown to be overage. Undoubtedly, he is overage but on behalf of petitioners, it is submitted that he has been working earlier and was also empanelled earlier. Merely because the State did not choose to make appointments, it cannot disqualify people who had applied earlier when they were within consideration for appointment. In my view, the submission must be accepted. It is for the same very vacancy that petitioners have applied. He was earlier empanelled but for some mysterious reason, State did not choose to fill up the vacancy. They issued fresh advertisement. The vacancy being for the earlier period, petitioner No 1 cannot be excluded from that on ground of being overage. In the advertisement, as contained in Annexure-4, it is clearly stipulated that those persons, to whom age relaxation is granted by the State or the High Court, would be considered accordingly.

In my view, it is a fit case in which petitioner No. 1 is to be granted age relaxation in the special facts and circumstances of the case. That being so, this Court has no option but to hold that all the petitioners would be deemed to be empanelled and would, accordingly, be dealt with by the respondents. They must take final decision with regard to their appointment within two months from the date of receipt of the order by the Collector.

With the aforesaid observations and directions, the writ petition stands disposed of.”

Following the aforesaid views, a Bench of this Court allowed similar relief to Md. Soaib Jung Khan, in C.W.J.C. No. 20128 of 2011.

As the case of the petitioner is similar to those of the petitioners in the aforesaid two cases, he too is entitled to similar relief. As such, the impugned order, dated 03.04.2012, issued by the District Magistrate, Bhagalpur, is hereby set aside, with an observation that the petitioner's case should not be rejected merely on the ground that he was overage.

The writ application is accordingly disposed of.

(Samarendra Pratap Singh, J)

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