

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7013 of 2016

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1. Ashwini Kumar Singh son of Late Girija Singh Resident of Punaichak (Hanumannagar), C.P. Thakur Path, P.O. & P.S. - Shastrinagar, District - Patna.
 2. Rakesh Kumar son of Late Raghunandan Prasad Resident of House No. 2G/4, Mohallla Bhatbigha, P.O. & P.S. - Rampur, District - Gaya.
 3. Abhay Kumar Roy son of Late Subalal Roy Resident of Village - Sirdilpur, P.O. - Patori, District - Samastipur.
 4. Ajoy Kumar son of Late Nageshwar Thakur presently posted as Accounts Assistant, PESU Division West Patna, District - Patna.

.... Petitioner/s

Versus

1. Bihar State Power Holding Company Ltd. Vidyut Bhawan, Bailey Road, Patna through Chairman cum Managing Director, Patna.
2. Chairman cum Managing Director, Bihar State Power Holding Company Ltd. Vidyut Bhawan, Bailey Road, Patna.
3. General Manager (Human Resources), Bihar State Power Holding Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
4. Officer on Special Duty (Human Resources / Administration), Bihar State Power Holding Company Ltd., Vidyut Bhawan, Bailey Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Chittaranjan Sinha, Sr. Advocate
Mr. Siddhartha Prasad
For the Respondent/s : Mr. Anand Kumar Ojha

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 30-06-2016

Heard learned senior counsel for the petitioners and
counsel for Power Holding Company.

The four petitioners have filed the present writ
application because they have been failing in what is known as L.P.P.
(Lekha Pravin Pariksha) for which three chances have been given to
them earlier and now they want five chances to have a go at the
examination. .



The petitioners have annexed Annexure-1, which is a standing order dated 16.3.1962. The examination, which is known as Lekha Pravin Pariksha or Proficiency- in- Accounts Examination, was the core issue for issuance of the standing order of 1962. This standing order deals with the object and purpose for holding such examination, which is for proficiency in accounts. Clause 6 of the standing order categorically states that the number of chances that an individual will be given in respect of each part of the examination will be three.

A case is sought to be built up by these petitioners on the basis of interpretation with regard to the standing order which was notified on 7.10.2009. Clause 8 of the said standing order talks in terms of passing of departmental examination with a maximum of five consecutive chances to be allowed. It is the contention of learned senior counsel for the petitioner, ably assisted by the Advocate on Record, that the 2009 standing order has altered 1962 standing order and now even for the accounts proficiency examination (L.P.P.) number of chances is five. There are people, who have been given this opportunity earlier but these petitioners, who have already participated in the examination, their results have been now held back, on the ground that they have already exhausted three chances earlier.

Yet another document, which has been brought on record, is Annexure- 3. In this document or the standing order dated

4.10.2010, there is talk of even L.P.P. at serial no.7 and the interpretation sought to be given is that even L.P.P., which was not part of the five examinations, which has been talked about in the standing order dated 7.10.2009, has been incorporated. Therefore, these petitioners are entitled to five opportunities to sit in the examination.

Counsel for the Power Holding Company has filed a counter affidavit as well as a supplementary counter affidavit and they take a categorical stand that so far as L.P.P. is concerned, the mother of all standing orders is the standing order contained in Annexure-1, which is 16th of March, 1962 standing order. That standing order still holds the field. The number of chances with regard to such examination still stands at three and Annexures 2 and 3, which are being referred to or relied upon by the counsel representing the petitioners, has no co-relation with regard to the number of chances meant for L.P.P. Annexure-2 talks of certain departmental examinations. Their names have been indicated in (i) to (v). Clause 8 of that standing order talks in terms of those departmental examinations (i.e. (i) to (v), but there is no reference to L.P.P. The primary object of issuance of standing order contained in Annexure-2, dated 7.10.2009 is to indicate certain changes in the syllabus keeping in mind that the earlier syllabus was an old and stale one and needed to be upgraded and revised. No doubt, change of syllabus in

L.P.P. has also been talked about in clause 10 but it is about changes in syllabus and not number of attempts. That position is also certified or clarified in Annexure-3 where L.P.P. also finds reference with regard to revised syllabus for the examination whose names are mentioned therein. The Power Holding Company has reiterated the position in Annexure- C/7 dated 19.3.2016. The employer knows best stand will have to be accepted in this case

In totality therefore, the Court comes to a considered opinion that there is no alteration with regard to number of chances. 1962 standing order still holds the field and the number of chances i.e. three, provided therein have not been altered either by Annexure- 2 or by Annexure- 3. If by omission, oversight or by mischief certain persons have been allowed to participate in the said examination a 4th or 5th time then the Power Holding Company is directed to undo the mischief caused thereto. So far as these petitioners are concerned, there cannot be any direction or order for declaration of their results, if they have participated in the examination a 4th or 5th time whatever be the case or the reason for taking the examination.

Writ application, therefore, has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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CAV DATE	
Uploading Date	01.7.2016
Transmission Date	