

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.456 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 17792 of 2012

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1. Rana Vijay Kumar Singh Son Of Late Mahesh Prasad Singh Resident Of Village/ Mohalla- Khajasarai, P.O And P.S- Laheriasarai, District- Darbhanga.
 2. Krishna Kumar Jha Son Of Late Nageshwar Jha Resident Of Village- Kabilpur, P.O And P.S- Laheriasarai, District- Darbhanga.
 3. Ajay Kumar Jha Son Of Late Nageshwar Jha Resident Of Village- Kabilpur, P.O And P.S- Laheriasarai, District- Darbhanga.
 4. Surya Kumar Choudhary Son Of Late Jageshwar Choudhary Resident Of Village- Darhar, P.O And P.S- Laheriasarai, District- Darbhanga Working At Sub- Division, Sadar, Darbhanga.

.... Appellant/s

Versus

1. The State Of Bihar through The Secretary Department Of General Administration, Government Of Bihar, Patna.
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The District Magistrate, Darbhanga.
4. The Deputy Collector, Establishment, Darbhanga.

.... Respondent/s

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Appearance :

For the Appellants : Mr. Sanjay Parasmani

For the Respondents : Mr. Sunil Kumar Mandal, SC 3 with
Mr. Bipin Kumar, AC to SC 3

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 04-08-2016

The order dated 03.01.2014 passed by the learned Single Bench is the subject matter of challenge in the present Letters Patent Appeal. The claim of the writ petitioners for appointment stands rejected for the reason that the appellants were overage at the time when they submitted applications in response to an advertisement published.



2. The appellants claim to be working on casual basis since 1991. In pursuance of a direction of this Court in C.W.J.C. No. 6687 of 2000 (Mohibul Nadaf and others Vs. The State of Bihar and others) decided on 09.12.2009, the claim of the writ petitioners for appointment on Class-IV post was directed to be considered. In another writ petition bearing C.W.J.C. No. 4338 of 2010 (Dina Nath Jha and others Vs. The State of Bihar and others) decided on 05.10.2010, it was observed that the State, as matter of policy, shall consider the issue of age relaxation, past experience etc. The said order was modified in L.P.A. No. 62 of 2011, wherein the direction was issued to consider the claim of those writ petitioners while considering the case of other eligible candidates in accordance with law.

3. An advertisement was published by the District Magistrate, Darbhanga on 09.02.2012 for appointment on Class-IV post. The appellants submitted representation for adjustment on Class-IV post. It was in pursuance of the advertisement it was decided that the candidates whose name appear in the 1991 panel will be given preference in the matter of appointment with grant on relaxation of age. Since the name of the appellants were not in the earlier panel, they were not considered for appointment and relaxation in age. Being aggrieved, the appellants preferred C.W.J.C.

No. 17792 of 2012 and dismissal of the same by the learned Single Bench on 03.01.2014 has given rise to the present Letters Patent Appeal.

4. Learned counsel for the appellants submits that as they have worked since 1991 in the District Office, their names were required to be included in the 1991-92 as well as 1994-95 panels but the same was illegally not done and, thus, pursuant to Advertisement No. 01/2011-12, they had submitted their application and non inclusion of their names is arbitrary as others junior to them have been empanelled and also subsequently appointed.

5. In the counter affidavit, it is averred that the first district panel was published on 24th August, 1992 for the year 1991-92 but the process of appointments from the panel was kept in abeyance and subsequently it was scrapped on 28th February, 1996. The second district panel of 1994-95 was prepared and published on 8th November, 1997 in pursuance of the direction of this Court in C.W.J.C. no. 8187 of 1997 dated 5th May, 1997 but the process was cancelled on 20th August, 2011 due to non-availability of vacant post in consonance with the approved reservation roster. It is thereafter the advertisement was published as mentioned above in the year 2012 and the appellants were not considered eligible for appointment. It is averred to the following effect:



“That it is further submitted that the present petitioners have also applied for the post of Class-IV appointment against the published advertisement being Advertisement No. 01/11-12 and in the same, there applications/candidatures, after considering the facts and circumstances as the petitioners were not the panellists of panel 1991-92 and 1994-95 and have not fulfilled the criteria into the extent of age in consonance to the published advertisement, have been rejected in accordance with law laid in the order of the Hon’ble Court vide order dt.-22.11.2011 passed in M.J.C. No.- 4455 of 2011 and in the same, against such rejection of their candidature the petitioners had preferred a writ petition being C.W.J.C. No.- 1779 of 2012 which had been disposed of vide order dt.-03.01.2014 and in the same, the petitioner have filed this L.P.A. No.-..... of 2004 before your lordship.”

6. Having considered the matter, we do not find any merit in the present appeal. Whatever may have been the claim of the appellants, it is an undisputed position that their names did not figure in the panels prepared for the period 1991-92 and 1994-95. The appellants do not seem to have had any grievance with regard to their names not being included in such panels and, thus, after having accepted the position, they cannot be permitted to again raise a claim in the year 2012 before the authorities on the basis of them having been engaged in the year 1991. The subsequent panels cannot be

considered in isolation and the panel prepared in terms of Advertisement No. 01/2011-12 was pursuant to various directions of the Court in the cases filed by other persons and not the appellants. As the issue is the result of a continuing process of preparation of panels for appointment beginning from 1991-92, 1994-95 and finally on 14.05.2012, the appellants cannot now be permitted to reopen matters which have attained finality in the year 1991-92 itself. Thus, the reason of non inclusion of the name of the appellants in the panel dated 14.05.2012 is clearly neither arbitrary nor unreasonable. The appellants not being included in the 1991-92 and 1994-95 panels and having accepted the position, cannot get a fresh lease of life or agitate for enforcement of any right which, if even they might have possessed earlier, clearly has got extinguished due to efflux of time.

7. For the reasons aforesaid, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal which, accordingly, stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/P.Kumar

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