

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17981 of 2009

=====

Ajay Kumar, S/O Late Ambika Prasad, Superintendent of Police (Food), C.I.D, Patna, presently posted as Commandant, Home Guard, Chhajubagh, Patna, R/O South of Income Tax Colony, Near New Bypass Road, Bhuthnath Road, Kankarbagh Colony, Patna

.... Petitioner/s

Versus

1. The Union of India through the Secretary Ministry of Home Affairs, Government of India, North Block, New Delhi
2. The Union Public Service Commission through its Secretary, Dholpur House, Shahjahan Road, New Delhi- 110069
3. The State of Bihar through its Chief Secretary, Old Secretariat, Patna
4. The Secretary Home (Police) Department, Government of Bihar, Old Secretariat, Patna
5. The Director General-Cum-Inspector General of Police, Government of Bihar, Old Secretariat, Patna
6. Ziaul Hasan Khan, S/O (presently) known to the (Petitioner) Assistant to the Inspector General, Wireless, Patna
7. Shyam Kumar, S/O (Presently) known to the (Petitioner) Superintendent of Police, Traffic, Patna
8. Arbind Kumar, S/O (presently not known to the (Petitioner) Superintendent of Police, (Railway), Jamalpur
9. Awadhesh Kumar Sharma, S/O (presently not known to the (Petitioner) Commandant, B.M.P., 18, Bodh Gaya
10. Ajay Kumar, S/O (presently not known to the (Petitioner) Superintendent of Police, C.I.D., Patna
11. Ram Narain Singh, S/O (presently not known to the (Petitioner) S.D.O., Bettiah
12. Pradeep Kumar Srivastava, S/O (presently not known to the (Petitioner) S.D.P.O., Aurangabad
13. Nagendra Prasad Singh, S/O (presently not known to the (Petitioner) Deputy Superintendent of Police (Railway), Bodh Gaya
14. Gopal Singh Bhadoria, S/O (presently not known to the (Petitioner) Deputy of Superintendent of Police, Bhagalpur Town, Bhagalpur
15. Surendra Lal Das, S/O (presently not known to the (Petitioner) Additional Superintendent of Police, Patna
16. Vimal Kumar, S/O (presently not known to the (Petitioner) S.D.P.O., (West), Muzaffarpur
17. Anwar Hussain, S/O (presently not known to the (Petitioner) Superintendent of Police (City), Patna
18. Uma Shankar Sudhanshu, S/O (presently not known to the (Petitioner) Deputy Superintendent of Police (Administration), Office of D.I.G., Patna
19. The Selection Committee through its Member Prof. D.P. Agarwal under UPSC Dhaulpur House, New Delhi

.... Respondent/s

With

=====

Civil Writ Jurisdiction Case No. 17376 of 2009

=====

Union Public Service Commission through its Secretary, Dholpur House,
Shahjahan Road, New Delhi- 110069

.... Petitioner/s

Versus

1. The Union of India through the Secretary Ministry of Home Affairs, North Block, New Delhi
2. The State of Bihar, through its Chief Secretary, Old Secretariat, Patna
3. The Secretary Home (Police) Deptt., Government of Bihar, Old Secretariat, Patna
4. The Director General - Cum - Inspector General of Police, Government of Bihar, Old Secretariat, Patna
5. Ramjag Ram, S/O Late Shri Tribhuwan Ram, R/O Vill.- Sonbarsa, P.S.- Sonbarsa, Distt.- Buxar, Bihar, working as Commandant, Bihar Home Guards, Headquarters, Chhajubagh, Patna
6. Ziaul Hasan Khan, C/O Chief Secretary, Govt. of Bihar, Patna
7. Shyam Kumar C/O Chief Secretary, Govt. of Bihar, Patna
8. Arbind Kumar C/O Chief Secretary, Govt. of Bihar, Patna
9. Awadhesh Kumar Sharma C/O Chief Secretary, Govt. of Bihar, Patna
10. Ajay Kumar Mishra C/O Chief Secretary, Govt. of Bihar, Patna
11. Ram Narain Singh C/O Chief Secretary, Govt. of Bihar, Patna
12. Pradeep Kumar Srivastava C/O Chief Secretary, Govt. of Bihar, Patna
13. Nagendra Prasad Singh C/O Chief Secretary, Govt. of Bihar, Patna
14. Bopal Singh Badoria C/O Chief Secretary, Govt. of Bihar, Patna
15. Surendra Lal Das C/O Chief Secretary, Govt. of Bihar, Patna
16. Vimal Kumar C/O Chief Secretary, Govt. of Bihar, Patna
17. Anwar Hussain C/O Chief Secretary, Govt. of Bihar, Patna
18. Uma Shankar Sudhanshu C/O Chief Secretary, Govt. of Bihar, Patna

.... Respondent/s

With

=====

Civil Writ Jurisdiction Case No. 12942 of 2009

=====

Arvind Kumar @ Arbind Kumar, son of late Hare Krishna Prasad @ Sanehi, resident of Mohalla Dharamrai Chak, P.O. and P.S. Lakhisarai, District Lakhisarai (Bihar), presently posted as Superintendent of Police, C.I.D. Department of Home(police), Government of Bihar, Patna and then posted as Superintendent of Police (Railway), Jamalpur

.... Petitioner/s

Versus

1. The Union of India through the Secretary Ministry of Home Affairs, Government of India, North Block, New Delhi
2. The Union Public Service Commission, through its Secretary, Dholpur House, New Delhi
3. The State of Bihar, through its Chief Secretary, Old Secretariat, Patna
4. The Secretary, Home (Police) Deptt., Government of Bihar, Old Secretariat, Patna
5. The Director General - Cum - Inspector General of Police, Government of

Bihar, Old Secretariat, Patna

6. The Selection Committee through its member, Prof. D.P. Agrawal, under U.P.S.C., Dholpur House, New Delhi
7. Ramjag Ram S/O Late Tribhuwan Ram, R/O Vill.- Sonbarsa, P.S.- Sonbarsa, Distt.- Buxar, Bihar, presently working as Superintendent of Police (Food), C.I.D., Bihar, Patna then Commandant, Bihar Home Guards, Headquarters, Chhajubagh, Patna
8. Ziaul Hasan Khan, son of not known to the petitioner, presently posted as Superintendent of Police (Vigilance), Bihar, Patna
9. Shyam Kumar, son of not known to the petitioner, presently posted as Assistant Director, Bihar Police Academy, Computer Bhawan Bailey Road, Patna and then posted as Superintendent of Police, Traffic, Patna
10. Awadhesh Kumar Sharma, son of not known to the petitioner, presently posted as Commandant, B.M.P. 7, Katihar, Bihar and then posted as Commandant B.M.P. Bodhgaya
11. Ajay Kumar Mishra @ Ajay Kumar, son of not known to the petitioner, presently posted as Commandant, B.M.P. 10, Patna, then posted as Superintendent of Police, C.I.D., Patna
12. Ram Narain Singh, son of not known to the petitioner, presently posted as Assistant Director (Training), Bihar Police Academy, Computer Bhawan, Baily Raod, Patna and then posted as S.D.P.O., Bettiah
13. Pradeep Kumar Srivastava, son of not known to the petitioner, presently posted as Superintendent of Police, Kaimur, Bhabhua and then posted as S.D.P.O., Aurangabad
14. Nagendra Prasad Singh, son of not known to the petitioner, presently posted as Superintendent of Police, Supaul, Bihar and then posted as Deputy Superintendent of Police, Railway, Bodh Gaya
15. Surendra Lal Das, son of not known to the petitioner, presently posted as Superintendent of Police (Crime), C.I.D., Bihar, Patna then posted as Additional Superintendent of Police, Patna
16. Vimal Kumar, son of not known to the petitioner, presently posted as Superintendent of Police, Railway, Jamalpur, Bihar and then posted as S.D.P.O. (West), Muzaffarpur
17. Anwar Hussain, son of not known to the petitioner, presently posted as Superintendent of Police, Sitamarhi and then posted as Superintendent of Police (City), Patna
18. Uma Shankar Sudhanshu, son of not known to the petitioner, presently posted as Superintendent of Police, Araria and then posted as Dy.S.P.(Admn.), office of DIG, Patna Bihar, Patna

.... Respondent/s

=====

Appearance :

(In CWJC No.17981 of 2009)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

(In CWJC No.17376 of 2009)

For the Petitioner/s : Mr. Kaushal Kumar Jha, Advocate

For the Respondent/s : Mr. Rakesh Kr. Saurendra, Advocate
Mr. Manager Sah, Advocate

(In CWJC No.12942 of 2009)

For the Petitioner/s : Mr. Manoj Kumar Sinha, Advocate

For Respondent No. 1 : Mrs. Kanak Verma, CGC
For U.P.S.C. : Mr. Kaushal Kumar Jha, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)
Date: 27-06-2016

=====

All these three writ petitions arise out of the selection process for the cadre of Indian Police Service from the cadre of State Police Service. So far as petitioner Ajay Kumar is concerned, he having superannuated long back is not interested in pursuing the matter.

So far petitioner Arvind Kumar @ Arbind Kumar is concerned, he also superannuated and is dead and there is an affidavit that his litigation would not be pursued. It leaves us with the third writ petition, which is on behalf of Union Public Service Commission (for short UPSC). They are aggrieved by the order of the Central Administrative Tribunal, Patna Bench, Patna passed in O.A. No. 90/2007 and analogous cases which were disposed of by order dated 21.07.2009. We find, the direction of the Tribunal in nutshell is to the UPSC to consider the complete ACRs of the officers concerned and then take a fresh decision. Having examined the facts and circumstances, we find no reason to interfere in view of the following facts :

Respondent Ramjag Ram, who filed OA No. 90/2007 and is the only surviving contending claimant, though superannuated, was considered for selection by promotion to the cadre of Indian Police Service in the year 2003. Even though he was found fit, he could not get the said promotion in view of the fact that the number of vacancies were filled and he could not make to the select list. The next time when process was undertaken by the UPSC it was in the year 2005. For the year 2005, the relevant years would be 1999-2000, 2000-01, 2001-02, 2002-03 and 2003-04. UPSC while considering the case of Sri Ramjag Ram found that the ACR of the year 2002-03 and 2003-04, which had now become relevant, were not complete in respect of the said person as sent by the State. He was, thus, not considered fit. When the matter was brought before the Tribunal and upon directions from the Tribunal State produced complete ACRs, the Tribunal in its order dated 05.12.2008 has noted the situation in detail and clearly pointed out that the ACR, as earlier sent by the State for the years 2002-03, 2003-04, were incomplete but what was now produced before it by the State, if read with what was sent earlier, it give the complete picture. The State had wrongly withheld part of ACRs. Ultimately, in the final order virtually based on this anomaly the Tribunal directed UPSC to

consider the complete ACRs, as was now available, and pass fresh orders. We are surprised as to how UPSC at all could have been aggrieved by this order of the Tribunal and file the writ petition challenging the Tribunal's order.

Once before the Tribunal it became clear that for whatever reasons State had only sent part of the ACR, balance also being available but suppressed, once those came out in open UPSC was bound to consider the whole. For the failure of the State to put up the entire ACRs, no person can be made to suffer, otherwise it would be putting a premium on the State action. The order passed by the Tribunal was a just and proper order. In the facts and circumstances, we, therefore, find no merit in this surviving writ petition. It is accordingly, dismissed.

We may note that now it is only a formality that the UPSC has to do. So far as Ramjag Ram is concerned, as submitted by Sri Abhay Kumar Singh, learned Senior Counsel, he is only interested in vindicating his stand that he was wrongly deprived of the position which he was rightful entitled. It is expected that the State Government would fully cooperate in the matter and UPSC would take appropriate decision in respect of Ramjag Ram within a period of four months from today.

With the observation aforesaid, all the three writ



petitions are disposed of.

Let the State forward the complete ACRs to the
UPSC for consideration immediately.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	30.06.2016
Transmission Date	