

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4225 of 2014

- =====
1. Dr. Ganesh Chandra Jha, S/o Late Subhadra Jha, Resident of Village- + P.O. – Jiraul, Via – Khirhar, District – Madhubani, Pin Code - 847230
 2. Dr. Shambhu Nath Jha, S/o Late Jagadanand Jha, At + P.O. Nawada, Via – Bahera, District – Darbhanga, presently posting Touring Veterinary Officer (Mobile), Samastipur
 3. Dr. Ashutosh Ranjan Prasad, S/o Late Chittaranjan Prasad, Resident at – Basant Kanan Vihar, Flat No. 104, Dhirachak, Bangali Tola, Anishabad, Patna Pin Code – 800001, T.V.O. Athmalgola, Patna
 4. Dr. Ram Bali Kumar, S/o Late Rajendra Kumar, Resident of Village+ P.O. – Sinuar Gopal, Laheria Sarai, Darbhanga T.V.O. Bithan, Samastipur
 5. Dr. Anup Kumar Anupam, S/o Late Braj Kishore Prasad, Resident of Village- - Basti, P.O. – Harnaut, District – Nalanda, T.V.O. Sampatchak.
 6. Dr. Ram Kumar Pandey, S/o Late Nagendra Pandey, Resident of 32 Shiva Complex, Vednagar, Rukanpura, Near Reebok Showroom Patna-14, T.V.O., Jainpur, Patna
 7. Dr. Md. Firoz Akhtar, S/o Md. Shafique, Respondent of Village- - Lachhanpur, P.O. – Bachgaun, Via – Kasba, District – Purnea, T.V.O., Jokihat, ARaria
 8. Dr. Abdur Rashid, S/o Abdur Rauf, T.V.O. (Mobile), Katihar
 9. Dr. Md. Moinuddin, S/o Late Md. Hanif, Resident of Aaram Lodge, Line Bazar Purnea, T.V.O. Dighal Bank, Kishanganj
 10. Dr. Birendra Kumar Mishra, S/o Sri Amarnath Mishra, Resident of Aaram Lodge, Line Bazar, Purnea, J.V.O. Bankipur, Patna
 11. Dr. Navin Prasad Sah, S/o Sri Narayan Prasad Sah, Resident of Siyaram Sarswasti Sadan, Flat No. 303, Siyaram Nagar, Bhikhanpur, Bhagalpur, Pin Code – 812001, S/oV.O. Range Office, Bhagalpur
 12. Dr. Amrendra Kumar, S/o Sri Kamleshwar Prasad Yadav, District – Veterinary Hospital, Ghosi Tola, Munger, J.V.O. Munger
 13. Dr. Ram Kinkar, S/o Late Hari Ballav Sahu, Resident at – Patel Nager, Professor Colony, P.O. T.N.B. College, District – Bhagalpur Pin – 812006, T.V.O., Sabour
 14. Dr. Amod Prasad Singh, S/o Late Surendra Narayan Singh, T.V.O. Jankinagar Block – Banmankhi, District – Purnea
 15. Dr. Syed Shaukat Hussain, S/o Late S/o Moinul Hassan, Babunia Road Oposite Police Chowki No. 2, P.O. & District – Siwan, Pin – 841226, Bihar T.V.O., Deoria, Muzaffarpur
 16. Dr. Ajay Kumar Mishra, S/o Sanjayshree Prasad Mishra, Resident of At + P.O. Brahmipur, Gorakhpur (U.P.) T.V.O., Maharajganj Block, Siwan

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Personnel & Administrative Reforms Department, Government of Bihar, Patna
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna
4. The Principal Secretary, Animal Husbandry & Fishery Department, Government of Bihar, Patna
5. The Additional Secretary, Animal Husbandry & Fishery Department, Government of Bihar, Patna

6. The Joint Secretary, Animal Husbandry & Fishery Department, Government of Bihar, Patna
7. The Special Secretary, Animal Husbandry & Fishery Department, Government of Bihar, Patna
8. Dr. Sheo Pujan Kumar, S/o Sri Kanchan Thakur, Konka Kababu Toli, Main Road, Ranchi, At present A.H.O. (CD), Aurangabad, District – Aurangabad
9. Dr. Moin Miyan, S/o Shri Yachin Miyan, Resident of Village- - Pokhraha, P.O. – Pakri Guriya, District – Gaya, At present TVO, Samshernagar, Block – Daudnagar, District Aurangabad (Bihar)
10. Dr. Animesh Kumar, S/o Sri Lalit Mahto, Resident of Village- -Wasipur, P.O. – Amarpur, Via – Merh Nichauki, District – Munger, At present TVO Mobile, Begusarai
11. Dr. Binay Kumar Chandrayan, S/o Sri Kedarnath Singh, Resident of Village- - Chhotibar, District – Nalanda, At present TVO Warsaliganj, Block – Warsaliganj, District – Nawada
12. Dr. Anjani Kumar Sinha, S/o Sri Sidheshwar Prasad, Resident of Village- - Barah, Via – Athmalgola, District – Patna At present TVO, Dhusmal, Block – Rauta, District – Purnea
13. Dr. Diwakar Prasad, S/o Nanku Singh, Mithapur B. Ara, Nahar Par Patna - 800001, Asstt. Cattle Show Officer, At present AHD Information & Extension Off Polo Road, Bihar, Patna
14. Dr. Brajesh Kumar, S/o Ram Pratap Singh, Resident of Village- - Baruntar, P.O. – Salimpur, P.S. – Harnaut, District – Nalanda, At present JVO Tehta, Jehanabad
15. Dr. Uma Shankar Prasad Singh, S/o Sri Devendra Prasad Singh, Resident of Village- - Khandpar, P.O. – Karwadpur, Via – Suryagarha, District – Munger, At present TVO Jamalpur, District – Munger
16. Dr. Upendra Prasad Gupta, S/o Sri Muneshwar Prasad, Resident of P.O. – Dumri, Via – Deo, District – Aurangabad at present TVO Kochas, District – Rohtas
17. Dr. Bishnudeo Sah, S/o Sri Sukdeo Sah, Resident of P.O. Mirjahan Hat, District – Bhagalpur At present TVO Rupse, Block-Rajon, Banka
18. Dr. Jai Prakash Bhagat, S/o Biondeshwari Bhagat, Resident of P.O. Gamhariya Bazar, District – Madhepura, At present TVO Rautara, Block – Korha, District- Katihar
19. Dr. Shekhar Kumar, S/o Muneshwar Mahto, Resident of Village- + P.O.- Paharpur, Via – Suryagarha, District – Munger, At present TVO, Aliganj, Block-Aliganj, District - Jamui

.... Respondent/s

=====

Appearance :

For the Petitioner/s :	Mr. Rajendra Pd. Singh, Sr. Advocate
	Ms. Pushpa Sinha
	Mr. Rakesh Roshan Singh
	Mr. Mukesh Kumar Singh
For the Respondent/s :	Mr. SC13- Arvind Kr
	Mr. Mahendra Prasad Verma
For the Respondent 8 & 9:	Mr. Dilip Kumar

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 16-02-2016

Heard learned counsels for the parties.

The publication of the gradation-list by the Animal Husbandry and Fisheries Department, Government of Bihar, Patna, dated 07.11.2013, contained in Annexure-1, is being challenged by the petitioners, who have joined together in the present writ application, since the gradation-list has the effect of altering the seniority position of these petitioners viz-a-viz some of the private-respondents. Writ application has been filed for quashing the same and even restore the seniority position of the petitioners.

Earlier the gradation-list was notified on 19.09.2012, but the position, which was reflected in the said gradation-list threw up some more objections, which necessitated a re-look and the outcome of the same, is Annexure-1.

Submission of learned senior counsel is that based on the recommendation made by Bihar Public Service Commission (for brevity "B.P.S.C."), candidates so selected on the post of Bihar Veterinary Service Grade-II came to be appointed. Gradation-list was prepared in the past, which, in turn, led to certain litigations, but now by virtue of notification, contained in Annexure-1, the settled position is again sought to be unsettled.

Learned senior counsel for the petitioners submits that since these appointees were recommended and appointed on 24.10.1989, Annexure-3, on the basis of recommendation of



B.P.S.C., dated 10.08.1989, contained in Annexure-2, the circular, dated 26th of August, 1972 will occupy the field and not any other circular issued by the General Administration Department, subsequently, especially, dated 31.10.1990. There is no reason why the recommendation of B.P.S.C. ought to be unsettled and the seniority position emerging from Annexure-2 need to be rearranged in terms of Annexure-1

The stand of the private-respondents and the State is more or less identical in nature. According to them, when the 19.09.2012 gradation-list was published, objections started trickling in, the department of Animal Husbandry and Fisheries constituted a Grievance Redressal Committee and went into the matter. The deliberation done by the Departmental Grievance Redressal Committee has been placed in the counter affidavit of the private-respondents very succinctly in paragraph nos. 17 to 19, which are reproduced hereinbelow.

“17. That the Departmental Grievances Redressal Committee formed on the directives of the Law Department, Bihar, Patna vide its letter no. A/AJ-20/2010/2481-J/dated 29.04.2011 while reviewing the petitions of Dr. Diwakar Prasad, Dr. Brajesh Kumar, Dr. Anjani Kumar Sinha, Dr. Vinay Kumar Chandrayan, Dr. Moin Mian, Dr. Uma Shankar Prasad Singh etc. in its meeting on 08.05.2013 found the notification no. 2483, dated 19.09.2012 illegal. The



committee consisting of Principal Secretary as Chairman and Special Secretary, Director, Animal Husbandry, Deputy Secretary, Animal and Fisheries Resources Department, Director, Fisheries, Director, Dairy and Under Secretary, Animal and Fisheries Resources Department as members of the committee thoroughly investigated the matter and found that the recommendation of the B.P.S.C., Patna sent to the department by its letter no. 355, dated 10.08.1989 was category-wise, not on merit basis of the candidates who had appeared in the interview held by B.P.S.C. for the appointment of the candidates, i.e. Veterinary graduates. The Grievance Redressal Committee reviewed the merit list (Annexure – D) issued by the B.P.S.C. on the request of Mrs. Jyotsna Kumari, w/o Dr. Diwakar Prasad, one of the complainants, under Right to Information Act. The list was clearly based on the marks obtained by the candidates in their interview conducted by the B.P.S.C.

The list of B.P.S.C. (Letter no. 355, dated 10.08.1989) carries the names of the candidates on category wise. The names of the candidates in all the categories begin with serial number one. Here it was beyond understanding that candidates of which category should be placed on serial number one and candidates of which category at last serial number. The committee has mentioned that after 01.01.1990 the B.P.S.C. started recommending the names of



candidates on the basis of their merit. But before January, 1990 the B.P.S.C. used to send the names of candidates on category-wise and the candidates of all the categories bore the serial number one (1). The committee observed that the department while preparing and finalizing the gradation list took into consideration the serial number one of the general category and it went on arranging the names of the candidates of all categories serially downwards irrespective of their marks obtained in the interview. Here the department went wrong and the gradation list published by notification number 2483, dated 19.09.2012 was challenged by some officers including Dr. Diwakar Prasad. Reviewing the complaints, the Grievance Redressal Committee recommended the department to cancel this notification and directed the department to arrange the names of the candidates on their merit basis. The department published the gradation draft (Annexure – 8) and also published notice (vide Annexure--7) in the news papers and uploaded on the department website for inviting objections, if any.

18. That on the recommendation of the Grievance Redressal Committee the department published the gradation draft in the news papers and circulated it to its sub-ordinate offices for inviting objections if any.

19. That after reviewing the objections the department arranged the names of the candidates

***(officers) on the basis of the merit list (Marks sheet)
issued by B.P.S.C. and final gradation list vide
notification number 2676, dated 07.11.2013 was
published giving justice to the aggrieved candidates.***

The Court has gone through Annexure-2, which is the recommendation of the B.P.S.C. A look at the said recommendation surely supports the position taken by the State and the private-respondents that the B.P.S.C. did not recommend the names of the candidates on the basis of merit, but it was a category-wise recommendation, the serial no. of different categories are overlapping and, therefore, the confusion has prevailed on the issue of seniority in preparation of gradation-list. The department, therefore, has organized the gradation-list, contained in Annexure-1, on the basis of performance in the interview before the B.P.S.C. Board and that position is reflected in Annexure-1 and the objections raised by the petitioners through the present writ application does not merit any interference.

There cannot be any dispute that the circular of the General Administration Department, dated 26th of August, 1972 will occupy the field and seniority will be reckoned on the basis of recommendation made by the appointing authority, but since B.P.S.C. has created chaos by not making recommendation in terms of Annexure-2 on the basis of merit, but on the basis of candidates, category-wise and caste-wise, obviously, there will be overlapping

claims and conflicting claims as that, which has finally been put in order by virtue of Annexure-1.

The Court, therefore, satisfied that the reorganization or redrawing up of the gradation-list was necessitated and if the formula, which has been applied, is the basis for notifying the seniority, contained in Annexure-1, then no interference is needed with Annexure-1, because it is not in dispute that interview was the only basis on which such selection and recommendation by B.P.S.C. was made.

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

(Ajay Kumar Tripathi, J)

SKM/-

U			
---	--	--	--