

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8247 of 2014

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1. Satya Narayan Singh Son of Late Baleshwar Singh Resident of Village+ P.O- Masrakh, Gopalbadi, Police Station- Masrakh in the district of Saran.
 2. Anil Kumar Sharma Son of Late Ram Bahadur Sharma Resident of Village- Arap, Police Station- Vikram in the district of Patna.
 3. Jai Narayan Singh Son of Sri Ravindra Nath Singh Resident of Village + P.O- Chaura, Police Station- Narhi in the district of Balia (U.P)
 4. Sharwan Kumar Sah Son of Late Ragho Sah Resident of Village+ P.O- Kadawa, Bharosa Singh Ka Tola, Police Station- Dhol Bajja in the district of Bhagalpur.
 5. Birendra Kumar Jha Son of Late Lakhan Lal Jha resident of Village- Araria Balaha, Police Station- Parbatta in the district of Khagaria.
 6. Ram Naresh Singh Son of Late Dasrath Singh Resident of Village- Nawadih, P.O- Goltenganj, Police Station- Muffasil, in the District of Saran.
 7. Sanjay Prasad Son of Prabhunath Prasad resident of B.I.T. Colony, Nawada, Police Station Nawada Town in the district of Nawada.
 8. Rajesh Kumar Sharma Son of Subh Karan Sharma resident of Village Bhaj Sarai, Police Station- Karam Dinpur in the District Gazipur (U.P)
 9. Jitendra Singh Son of Sri Ram Prasad Singh Resident of Village- Ekdar, P.O- Hathilpur, Police Station- Brahmipur in the district of Buxar.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Disaster Management Department, Main Secretariat, Patna, Government of Bihar, Patna.
2. The Principal Secretary, Disaster Management Department, Main Secretariat, Patna, Government of Bihar, Patna.
3. The Joint Secretary, the Disaster Management Department, Government of Bihar, Patna.
4. The Officer on Special Duty, Disaster Management Department, Government of Bihar, Patna.
5. The Commandant, State Disaster Response Force (SDRF), Bihta, Patna under Disaster Management Department, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar

For the Respondent/s : Mr. Vishwambhar Prasad, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 05-09-2016

An advertisement, no doubt, was issued by the State of Bihar to create a State Disaster Response Force (SDRF). The terms of advertisement and the requirements is indicated in Annexure-

1. Based on this advertisement many persons, including the present petitioners applied, went through the process of selection and they had not been finally engaged and therefore, the writ application. The engagement is on contract.

The stand of the State in the counter affidavit is that the advertisement clearly states in terms of paragraph 1 as well as paragraph 4 that the opening is available to retired ex servicemen of Indian Army/ Navy on pension. All these petitioners belong to the Para Military organization and they are retired from service and not even in active service. The advertisement does not make any leeway for people from Para Military Force to become eligible for consideration. The stand of the counsel for the petitioners in response to the stand of the State is that the petitioners were allowed to go through the process and were even shortlisted. Now, the respondents cannot be allowed to take a plea of ineligibility.

Eligibility or ineligibility is the core issue with regard to any such employment. Merely because the petitioners took a chance and went through the process and the respondents did not eliminate and weed them out at that juncture, it does not mean that they became eligible contrary to the advertisement. The term of advertisement is unambiguous. No eligibility can be created by participation contrary to what is required and laid down in the advertisement because if it is

so, it will violate Articles 14 and 16 of the Constitution of India. The only reason why these petitioners were not engaged or hired was because they lack eligibility as for persons from Para Military Forces there is no opening. If they were in service there was provision for consideration but since none of them belong to that category, there is no occasion for this Court to give a direction for their hiring or engagement under the said Force.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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