

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9419 of 2013

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1. Md. Mojib Son Of Late Md. Nooruddin Resident Of Mohalla- Barari, Police Station- Barari, District- Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar Through Its The Secretary, Personnel And Administrative Reforms Department, Old Secretariat, Bihar, Patna
2. The Commissioner, Bhagalpur Division, Bhagalpur
3. The Deputy Collector (Estt.) Bhagalpur
4. The District Magistrate, Bhagalpur
5. The Nazarat Deputy Collector, Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Najmul Hoda, Advocate.

For the State : Mr. Kinkar Kumar, SC 27.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-05-2016

Heard learned counsel for the petitioner and learned counsel for the State.

In the present writ petition, petitioner is seeking a prayer for appointment on Class IV post claiming that one Md. Safi Alam who has been shown to be below in the merit list of 1996-97 has been appointed whereas he has been deprived of the appointment to Class IV post.

It appears that the District Magistrate, Bhagalpur has published an advertisement on 18.6.2998 in daily newspaper Hindustan for appointment of Class IV post. In pursuance thereof the petitioner and others applied for the said, a panel was prepared on 29.11.2000 where the name of the petitioner has

figured at sl.no. 116 and name of Md. Safi Alam is standing at sl. no. 120. Claim has been made that Md. Safit Alam, below in rank, has been appointed on Class IV post whereas he has been left out.

Learned counsel for the State submits that the panel which was prepared in pursuance of 1998 advertisement was consigned on that account, another advertisement was published in 2001, in pursuance thereof the petitioner and others have also filed an application, in pursuance thereof a panel of 500 persons were prepared. As the name of the petitioner was not there in the panel, hence petitioner could not be appointed on Class IV post. He has further submitted that petitioner is claiming his appointment from the first list whereas first list was scraped and substituted by another list in which the name of Md. Safi Alam was not there. He approached this Court vide C.W.J.C. No. 7995 fo 2004 and his prayer was allowed by this Court and accordingly Md. Safi Alam has been appointed. He further submits that judgment was passed on 20.1.2011 and petitioner has filed this case after delay of two years i.e. in 2013 which itself is disentitlement him for appointment on Class IV post on the ground of delay and laches whereas learned counsel for the petitioner submits that as per order of this Court passed in C.W.J.C. No. 4916 of 2005 (Binod Kumar Jha & Ors. V. The

State of Bihar & Ors.) where this Court has recorded that panel will continue to operate until the persons listed in the panel are recruited in terms of the policy decision of the Government of Bihar taken in 1993 provided, of course, subject to eligibility to the post and as such the petitioner has subsisting right for his appointment.

As per claim of the petitioner the Collector has prepared a panel of 500 persons in which the name of the petitioner is not there. He has never challenged the said panel or approached any authority for induction of his name in the panel. Panel was prepared in 2004 and for the first time he is approaching this Court in 2013, itself indicates delay and laches in filing the writ petition.

Having considered the rival contention of the parties, merely the name of the petitioner was in the first list does not mean that his name is also standing in the second list. Petitioner has not produced any material to substantiate that in the second list his name is also standing and any person below him has been appointed. So far his claim is concerned that one Md. Safi Alam has been appointed as he has been shown to be at sl.no.120 but on perusal of the chart of merit list it appears that Md. Safi Alam is B.A whereas petitioner is only matric so much so his name is not there in second list. Counsel for the petitioner has shown office order dated 2.8.2013 showing placement of Md. Safi Alam where his qualification has been mentioned

matric.

Be that as it may, undisputedly petitioner has approached this Court after laps of a decade without any explanation. Delay defeat the valid and legal right and this Court would not like to entertain the delayed writ petition where no proper explanation has been offered in the entire writ petition specially the matter is relating to the appointment of Class IV post. If the petitioner was not conscious of his right to approach to the appropriate authority raising his grievance for non impalement of his name in the panel itself disentitled him of the relief.

In such view of the matter, on account of delay and laches for about 10 years this Court does not like to give any relief to the petitioner. This Court does not find any merit in this writ petition.

Accordingly this writ petition is dismissed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	30.5.2016
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