

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2789 of 2013

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Md. Akhlaque Hussain Son Of Md. Manzer Alam Resident Of Village-
Mahuawa, P.S.- Piparahi, District- Sheohar

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Social Welfare
Department, Government Of Bihar, Patna
2. The Director, I.C.D.S. Bihar, Patna
3. The Collector Cum District Magistrate, Sheohar
4. The District Programme Officer, Sheohar
5. The Under Secretary Cum Public Information Officer, General
Administration Department, Govt. Of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amresh Kumar Sinha, Adv.

Mr. Shashi Bhushan Singh, Adv.

For the Respondent/s : Mr. Himanshu Kumar Akela, AC to GA-1

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

9 15-02-2016

Heard learned counsel for the parties.

In the present case, the petitioner has raised a limited grievance that in the matter of appointment for the post of Statistical Assistant issued by the Director, Integrated Child Development Scheme, Bihar, Patna, has been ignored on the ground that the petitioner has crossed the age which is mentioned in the notification and it has been submitted that in view of the Circular of the State Government, the disabled person will get relaxation of ten years in the open competitive examination and five years in the limited competitive examination and the same benefit has not been given to the petitioner.



In the present case, the appointment of Statistical Assistant was to be made for the period of eleven months. That period is over. This Court cannot give a direction for appointment of the petitioner but, the question in the present case is as to whether the petitioner is entitled to get the benefit which has been conferred to the disabled person through resolution dated 5.1.2007 (Annexure-3) wherein it has been mentioned that the disabled person will get ten years relaxation in case of open competitive examination and five years in the limited competitive examination. In the present case, an advertisement was published for selection of Statistical Assistant but it cannot be said that the selection was not made on the basis of open competitive examination and the candidature of the petitioner cannot be refused to be taken into consideration only because the selection was to be made on the basis of marks obtained by the candidate. There can be several methods for the selection in the open test, may be written test as well as interview. Sometimes, the marks which is also a basis for selection of a candidate. Merely because the person has to be selected on the marks basis, it cannot be said the selection is not an open selection of the candidate. As this Court, for the present, cannot give any relief to the petitioner on account of period has already been lapsed, if any such notification is issued for selection through

open selection, the petitioner cannot be deprived of such benefit only because the selection was to be made on the basis of marks.

With the aforementioned observation, this application is disposed of.

(Shivaji Pandey, J)

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