

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11396 of 2013

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1. Ganga Prasad Son Of Late Yadunandan Rai, R/O Mohalla- Bahadurpur, P.S.- Sadar (Samastipur), District- Samastipur.
 2. Jagdeo Pandit Son Of Basudeo Pandit, R/O Village- Shahpur Patori, P.S.- Bibhutipur, District- Samastipur.
 3. Dinesh Prasad Son Of Late Yogi Lal, R/O Mohalla- Barah Patthar, Ward No. 12, P.S.- Town Samastipur, District- Samastipur.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Personnel And Administrative Reforms Department, Government Of Bihar, Patna.
3. The Director, Personnel And Administrative Reforms Department, Government Of Bihar, Patna.
4. The Director General, Administrative Department, Government Of Bihar, Patna.
5. The Director, Animal Husbandary Department, Government Of Bihar, Patna
6. The Collectariat Samastipur Through District Magistrate- Cum Collector, Samastipur.
7. The District Magistrate Cum Chairman Of Panel Preparation Cum Appointment Committee, Samastipur.
8. The District Animal Husbandary Officer, Samastipur.
9. Deputy Collector, In-Charge Establishment, Samastipur.
10. The Deputy Development Commissioner, Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Niranjan Kumar,
Mr. Mrityunjay Kumar,
Mr. Kumar Chiranjeev Rai, Advocates.
For the State : Mr. Binay Kumar Pandey, AC to GA 3.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-04-2016

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

2. In the present writ petition, petitioners are challenging the
order dated 3.12.2012 issued by the Chairman-cum-District
Magistrate, Samastipur by which the appointment Committee



has taken a decision for adjustment of service of the petitioners from Collectariate to District Animal Husbandry Office, Samastipur and also order dated 5.3.2013 issued by the District Magistrate, Samastipur by which petitioners have been relieved from Collectariate cadre to the Animal Husbandry Office, Samastipur.

3. Petitioners are raising grievance against their transfer from Collectariate to Animal Husbandry Office. As has been claimed by the petitioners, they were appointed in the year 1988 as daily wages employees. In 1990, 150 posts of Class IV employees had fallen vacant and out of 150 vacancies 108 persons who were daily wages employees were departmentalized in the year 1998-1999.

4. Altogether 42 vacancies left un filled. Petitioners were expecting their appointment on Class IV posts. When the petitioners were not regularised they moved before this Court vide C.W.J.C. No.7959 of 2002 and this Court vide order dated 18.8.2006 directed for the appointment of these petitioners vide order dated 18.8.2006 as quickly as possible but not later than six months from today.

5. When the order of this Court was not complied with petitioners moved before this Court vide M.J.C. No.542 of 2007,

this Court vide order dated 11.1.2010 directed to appoint the petitioners and others within six weeks from the date of issuance of the order.

6. In compliance of the order of this Court an advertisement was published by the Collector, Samastipur in 2006 inviting applications in format provided in the advertisement itself. In pursuance thereof petitioners and others have applied for the same. These petitioners were appointed vide memo no.72 dated 7.3.2010 (Annexure-4 to the writ petition) and they were working smoothly without any hindrance. The office of the Collector, Samastipur vide Office Order dated 17.7.2012 prepared the list of the candidates for being promoted on Class IV to Class III post, where the name of these petitioners were under consideration of promotion but before the list could have been acted upon the Collector has constituted a Committee for reorganizing newly appointed persons and the Committee vide memo no.107 dated 5.3.2013 after proper deliberation, arrived to a conclusion that some persons who have been appointed in reserve category are in excess to the quota recommended for their adjustment, in which four persons, namely these petitioners and one Abdul Rashid Baitha were recommended to be transferred and they were adjusted in the Animal Husbandry



Department, accordingly recommendation has been vide letter dated 5.3.2013 and the same was acted upon. Grievance has been raised by the petitioners that they were appointed in the Collectariate cadre and without the leave or any permission from this Court they have been transferred to the Animal Husbandry Department. Collectariate cadres are completely separate and distinct and they cannot be transferred from the cadre of Collectariate to the Animal Husbandry Department in as much as before order of transfer no consent was obtained from petitioners and they have been left to lurch as they would lose their seniority. He submits that the Collector is appointing authority with regard to Class IV in the Collectariate but he is not the appointing authority with regard to Class IV employee in the Animal Husbandry Department and he is not the controlling authority of Animal Husbandry Department and as such their transfer from Collectariate to the Animal Husbandry Department is quite illegal and not sustainable in law.

7. Learned counsel for the State tried his best to justify the order passed by the respondent and submits that it was not singular action of the Collector but cases of all employees were taken into consideration, newly appointed candidates including these petitioners have been adjusted against the posts in the

same pay scale without causing prejudice to the petitioners and others.

8. Having considered the rival contentions of the parties, from the facts it appears that petitioners were appointed in compliance of the order passed by this Court in the Collectariate and without taking any leave or any permission of this Court they have been transferred from the Collectariate to Animal Husbandry Department. It appears that for the appointment of Class IV employees in the Animal Husbandry Department the Collector is not competent authority. He is heading the Collectariate there he is empowered to appoint Class IV employees. Both cadres are quite different and distinct. There is nothing in the counter affidavit to show Class IV posts are not vacant in the Collectariate.

9. In such view of the matter, Collector, Samastipur is directed to re-examine the matter and pass a fresh order.

10. In the meantime, the order dated 5.3.2013 is kept in abeyance but petitioners would continue to work in the Animal Husbandry Department till fresh decision is taken by the Collector.

11. For convenience the petitioners are directed to file detailed representation annexing the copy of the present order

before the Collector, Samastipur who will take decision within a period of three months from the date of filing of the application.

12. With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

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