

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7652 of 2011

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1. Aditya Kumar Lal, son of late Rudranand Lal Das, resident of village- Supaul, Kayasth Tola East, P.S. + District- Supaul.
 2. Ram Singar Singh, son of Mundrika Singh, resident of village- Pachasa, P.S. Rahui, Dist. Nalanda.
 3. Surendra Kumar Yadav, son of Bindeshwar Prasad, resident of village- Tikulipar, P.S. Bihar Sharif, Dist. Nalanda.
 4. Rajesh Kumar, son of Naresh Paswan, resident of village-Desana, P.S. Ashthawan, Dist. Nalanda.
 5. Anil Kumar Singh, son of Late Talewar Singh, resident of Mohalla- Baradari, P.S. Bihar Sharif, Dist. Nalanda.

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Commissioner, Patna Division, Patna.
3. The District Magistrate, Nalanda at Bihar Sharif.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar, Adv.

For the Respondent/s : Mr. Brajesh Kumar, A.C. to A.A.G.-4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-11-2017

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

2. In this case, the petitioners are claiming to be appointed as 4th grade employees as they were working for many years.

3. In terms of 1980 Circular the panels were prepared from time to time in every year, some persons were appointed from the



panel and rests were placed in the subsequent panel. The Government has brought a new Circular dated 26.03.2010, there the minimum qualification was fixed as 8th class pass. Subsequently, on the basis of the recommendation of the Finance Department, the qualification was substituted by 10th class pass vide Notification dated 26.12.2013 and it has been made effective from 12.12.2012.

4. The fixation of the qualification is basically a policy matter and the Court should not interfere unless the policy is absurd or offending any part of the constitutional provision or it is so arbitrary in such manner no reasonable person would accept such qualification. In the present case, the enhancement of qualification from 8th pass to 10th pass cannot be said to be arbitrary or violates any provision of the Constitution. In such view of the matter, the submission of the learned counsel for the petitioner that the selection should be made on the basis of year wise vacancy which has occurred prior to 12.12.2012 should be filled up by the persons with the minimum qualification of 8th class pass and after 12.12.2012 the vacancy should be filled up by the persons with the minimum qualification of 10th class pass, is completely misconceived submission having no substance and the same is rejected. In the present case, challenge has been made to the Notification which has



been published in the year 2013. Normally, the Court should not interfere in such matters. The authority should proceed with the matter in terms of the new Notification.

5. At this stage, learned counsel for the petitioners submits that certain persons, who have minimum qualification of 10th pass have been working since long, so whenever the question of seniority will come, their cases should be considered.

6. This Court is of the view that as they have been working since long, they should be given the weightage in seniority. While fixing the seniority, the authority shall give weightage to the persons who have the qualification of 10th class pass have been working since long. For convenience, they will file representation before the District Magistrate, Nalanda. If such a representation is filed, the District Magistrate shall take decision in accordance with law.

7. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
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