

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.15 of 2016

In

Civil Writ Jurisdiction Case No.14698 of 2014

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1. Dinesh Kumar Singh Son of Late Awadh Bihari Singh resident of village - Gangapur, Police Station - Marihan, District - Mirjapur, State of Uttar Pradesh, at present New Bank Colony Fazalganj Town and P.S. - Sasaram, District - Rohtas.
 2. Himanshu Shekhar Jha Son of Late Rameshwar Jha resident of Mohalla - Babupara Godda, Police Station and District - Godda State of Jharkhand at present Regional Office Madhya Bihar Gramin Bank, Gaya.

... .. Appellants

Versus

1. The Madhya Bihar Gramin Bank through its Chairman, Head Office - Meena Plaza, South of Museum, P.S. - Kotwali Town & District - Patna.
2. The Chairman, Madhya Bihar Gramin Bank, Head Office - Meena Plaza, South of Museum, P.S. - Kotwali, Town & District - Patna.
3. The General Manager, Human Resources Development Department, Madhya Bihar Gramin Bank, Head Office - Meena Plaza, South of Museum, P.S. - Kotwali, Town & District - Patna.

... .. Respondents

Appearance :

For the Appellants	:	Mr. Bindhyachal Singh, Advocate Ms. Smriti Singh, Advocate Mr. Satya Prakash, Advocate
For the Respondent Bank:		Mr. Mahesh Narain Parbat, Senior Advocate Mr. Ved Prakash Srivastva, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 07-11-2017

Heard learned counsel for the parties.

2. The present Letters Patent Appeal arises from the order dated 09.01.2015 passed by a learned single Judge of this Court in C.W.J.C. No. 14698 of 2014 by which the learned single Judge has refused to interfere with the selection already made and



completed on 06.08.2014. The appellants were the writ petitioners who had challenged the result dated 06.08.2014 (Annexure-4 to the writ application) on the ground that by applying wrong process altogether nine persons had been promoted to Scale IV while the case of three persons were kept in a sealed cover.

3. The issue raised by the petitioners-appellants was with respect to the number of vacancies which according to them were not mentioned in the Circular No.19 issued on 15.07.2014. Learned counsel for the petitioners took a plea before the learned single Judge that in terms of Rule 5 of the Regional Rural Banks (Appointment and Promotion of Officers and Employees) Rules-2010 (hereinafter referred to as 'the Rules-2010'), the Board is obliged to determine the number of vacancies in each category of posts to be filled by direct recruitment or promotion keeping in view the guidelines approved by the Central Government from time to time. It was his further submission that process of selection from Scale III to Scale IV have been dealt with in the schedule of Rule and Rule A(III) specifically provides that the number of selected candidates empanelled for promotion shall be equal to the number of notified vacancies in order of merit.

4. The emphasis of the whole argument of learned counsel representing the petitioners-appellants was that before process of



selection, the Bank will notify the number of vacancies and only thereafter the process of selection or promotion will be initiated. According to the learned counsel representing the petitioners-appellants, the Bank issued a Circular bearing No. 19 of 2014 dated 15.07.2014 by which it has provided the method of selection including keeping result in sealed cover in the case of departmental proceeding. In the notification it has been mentioned that interview of 40 marks and assessment of his service credentials would be of 60 marks. The grievance of the learned counsel is that the said notification is totally silent about number of vacancies and as such the whole selection process is vitiated.

5. Before the learned single Judge when the Bank filed a counter affidavit, Annexure-A to the said counter affidavit was placed to show that the Bank had notified the vacancy on 14.07.2014 before initiation of process of selection. This has, however, been disputed by the learned counsel representing the petitioners.

6. A number of judgments of the Hon'ble Supreme Court have been cited and submissions have been made by learned counsel representing the appellants that it is a case where the illegalities and infirmities have taken place in the selection



procedure, therefore, following the proposition as laid down in the judgment of the Hon'ble Supreme Court in the case of ***Raj Kumar and Others vs. V. Shakti Raj and Others***, reported in (1997) 9 SCC 527 (paragraph 16) if instances of illegalities and infirmities have been found in the selection procedure, the same is liable to be set aside.

7. On the other hand, learned counsel representing the Bank has submitted once again on the strength of Annexure-A to the counter affidavit that at the very first place the submission of learned counsel representing the appellants that the number of vacancies were not notified is not correct and the Bank has placed the said Notification dated 14.07.2014, which was also uploaded on the website of the Bank and, therefore, the finding of the learned single Judge on the facts of the case are correct and if those findings are correct, the submission of learned counsel for the appellants that the selection procedure is vitiated has no leg to stand.

8. Learned counsel representing the Bank has once again relied upon the judgments of the Hon'ble Supreme Court in the cases of ***Union of India and others V. S. Vinodh Kumar and others***, reported in (2007) 8 SCC 100, ***Banking Service Recruitment Board, Madras V. V. Ramalingam and others***,



reported in **(1998) 8 SCC 523** and *Amlan Jyoti Borooah V. State of Assam and others*, reported in **(2009) 3 SCC 227**, to contend that once the petitioners-appellants have participated in the selection process and took a chance of their success, they cannot be allowed to challenge the selection procedure that too limited to number of vacancies after their being declared unsuccessful in the result.

9. Learned counsel representing the appellants has once again addressed this Court on the point that the selection procedure in the present case was vitiated due to noncompliance of the rules.

10. We have heard the rival submissions and perused the records as also the impugned order passed by the learned single Judge.

11. On facts itself it is very clear that Annexure-A to the counter affidavit is a notification, which was issued by the Bank showing the number of vacancies. The learned single Judge has correctly recorded a finding that the dispute raised by learned counsel for the appellants as to whether the said notification was issued after initiation of process of selection or before the process of selection cannot be gone into in the writ application. The submission of the learned counsel representing the appellants that it is a case of commission of glaring illegalities or infirmities in the



selection process would not appeal us because even otherwise we find that there is no grievance of the appellants with respect to the selection procedure. The grievance of the appellants is limited to the notification, i.e. Circular No.19 dated 15.07.2014, which according to them did not contain the number of vacancies. This grievance, as has been rightly held by the learned single Judge, cannot be allowed to be raised at this stage when the petitioners-appellants had already participated in the selection process, took their chance and only upon being declared unsuccessful, they raised an issue. In any view of the matter, the judgments relied upon on behalf of the appellants does not support their case as those were the cases where glaring instances of illegalities were found in the selection procedure, which was the reason for interference later on. In the present case, we do not find any such circumstance so as to warrant interference with the order passed by the learned single Judge. The selection process has already been completed in the year 2014.

12. The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Pawan/-

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CAV DATE	N/A



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