

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.846 of 2016  
Arising out of  
Civil Writ Jurisdiction Case No. 3939 of 2015**

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1. Bimal Hembram, Son of Late Lakhan Hembram, Resident of Village - Bharaili, P.S. - Bounsi, District - Araria.
  2. Vijay Kumar Soren, Son of Pitter Surendra Soren, Resident of Village - Kabaiya Katti Bari, P.S. - Bounsi, District - Araria.
  3. Amaresh Kumar Soren, Son of Manik Lal Soren, Resident of Village - Kabaiya Katti Bari, P.S. - Bounsi, District - Araria.
  4. Ajay Kumar Soren, Son of Late Surendra Soren, Resident of Village - Kabaiya Katti Bari, P.S. - Bounsi, District - Araria.
  5. Bahadur Hembram, Son of Babulal Hembram, Resident of Village - Madhura Golabari P.S. - Korbesganj, District - Araria.
  6. Balram Murmu, Son of Late Upendra Murmu, Resident of Village - Bhobhariya, P.S. - Bounshi, District - Araria.
  7. Suraj Tuddu, Son of Balhu Tuddu, Resident of Village - Kabiya Katti, Bari, P.S. - Bounsi, District - Araria.
  8. Dhaneshwar Murmu, Son of Late Chunnu Murmu, Resident of Village - Dhobaniya P.S. - Bounshi, District - Araria.
  9. Bhagwan Soren, Son of Sulkhan Soren, Resident of Village - Kabaiya Katti, Bari, P.S. - Bounshi, District - Araria.

.... .... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary of the General Administration Department, Government of Bihar, Patna.
2. The Divisional Commissioner of the Prunea Division, Purnea.
3. The District Appointment Committee of Araria District through its Chairman, the District Magistrate, Araria.
4. The District Magistrate, Araria.
5. The Deputy Collector (Establishment) District Establishment Unit, Araria.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Suresh Prasad Singh No. 1, Advocate

Ms. Kumari Rashmi, Advocate

For the Respondent/s : Mr. Sushil Kumar Singh, A.C. to AAG-10.

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE SUDHIR SINGH**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE ACTING CHIEF JUSTICE)**

**Date: 08-02-2017**

Re.:I.A. No. 3295 of 2016

The application is for condonation of delay of 2 days in filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory Application, we are satisfied that the appellants have shown sufficient cause to seek condonation of delay of 2 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 3295 of 2016 is allowed and delay of 2 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 846 of 2016

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 23<sup>rd</sup> of February, 2016 in C.W.J.C. No. 3939 of 2015 whereby, the writ application filed by the appellants claiming appointment against



Class-IV post against the Scheduled Tribes Category remained unsuccessful.

3. The process of appointment of Class-IV post was initiated through an advertisement published on 24<sup>th</sup> of July, 2013. The appellants were applicants for the said post under the Scheduled Tribes Category. The appellants have not been selected and appointed.

4. In the counter affidavit, the stand of the State is that the appellants were declared unfit in accordance with the terms and conditions applicable for preparation of panel for IV<sup>th</sup> grade employee. The relevant assertion made in paragraph 4 of the counter affidavit reads as under:-

“4. That briefly stated facts are that a panel has been prepared by the duly formed District Selection Committee following the guidelines and circulars of the government and the candidates have their place in the panel according to the working experience certificate [no. of man-days] submitted by them whereas the petitioners were declared unfit in accordance with terms and conditions applicable for the preparation of panel for IV<sup>th</sup> grade employee. The petitioner failed to qualify the terms and conditions hence they have not been included in the panel.”

5. With the counter affidavit, State has attached the minutes of the meeting held under the Chairmanship of District



Magistrate, Araria on 13<sup>th</sup> of August, 2014. A perusal of the said minutes shows that four categories of candidates were carved out. One in respect of candidates who have completed 240 days. Such category was given first preference. The second category was of the candidates who have experience of less than 240 days and the third category was in respect of the candidates working on daily wages. All those candidates in whose experience certificate only period of working has been shown and not the working days have not been included in the panel. The appellants fall in the 4<sup>th</sup> category as without experience they have not been appointed.

6. The appellants have not been found qualified for appointment against Class-IV post. Mere fact that there exist vacancies in the category of Scheduled Tribes category will not confer a right to the appellants to seek appointment when the appellants do not meet the bench-mark fixed for appointment against the Class-IV post.

7. Argument of learned counsel for the appellants is that there is no condition in the advertisement of fixation of bench-mark, therefore, the criteria adopted by the State is illegal.

8. The competent authorities are always competent to fix bench-mark for making appointment. The bench-mark in the present case is that of having experience of working against Class-IV post.



Since the appellants have no experience, therefore, such minimum bench-mark cannot be said to be unwarranted.

9. The Letters Patent Appeal is, thus, dismissed.

**(Hemant Gupta, ACJ)**

**(Sudhir Singh, J)**

P.K.P.

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