

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16968 of 2007

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Jainandan Yadav son of Late Sarowar Yadav, resident of Village and Post Office-
Sattar, Police Station- Bihra, District- Saharsa.

.... Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate, Saharsa.
3. The Deputy Collector Establishment, Saharsa.
4. The Deputy Collector Nazarat, District- Saharsa.
5. The Civil Surgeon cum Chief Medical Officer, Saharsa Resondent 1st Set.
6. Bhageshwar Singh, son of Laxmi Prasad Yadav, resident of Village-
Aguawanpur, Police Station and District- Saharsa at present appointed and
working on Class-IV Post in the office of Civil Surgeon cum Chief Medical
Officer, Saharsa.

.... Respondents

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Appearance :

For the Petitioner : Mr. Jitendra Kr. Roy, Advocate.
For the State : Mr. (GA-7)
For the Resp. No. 6 : Mr. S.M. Ashraf, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-11-2017

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for a direction
to the respondents to consider the petitioner for appointment on Class-
IV post from the panel of candidate Peons of 1995-96 prepared and
published on 20.03.2007 as against the post reserved for Backward
Categories in the circumstance that respondent no. 6 being junior to
the petitioner has been appointed on the said post ignoring the claim of
the petitioner.

3. At the very outset, learned counsel for the petitioner
invites attention to the judgment dated 27.07.2017 passed by this
Court in C.W.J.C. No. 12504 of 2007 arising from the same panel. It is



submitted that the petitioner stands at Serial No. 20 of the panel and hence his case stands on a better footing than the petitioner of C.W.J.C. No. 12504 of 2007 who stood at Serial No. 21 of the panel.

4. Learned counsel for the respondents appears and is not able to dispute the stand of the petitioner that the petitioner of C.W.J.C. No. 12504 of 2007 was similarly situated. It is however submitted that according to paragraph 3 of the writ petition, the petitioner's date of birth is 25.01.1956 and accordingly, he has already reached the age of superannuation.

5. Learned counsel for the petitioner, in reply, submits that typing error have crept in while mentioning the date of birth as 25.01.1956 in paragraph 3 of the writ petition in place of correct date of birth being 25.01.1959 as mentioned in the panel dated 20.03.2007 (Annexure-5).

6. Having regard to the nature of the grievance of the petitioner, the writ petition is disposed of in line with and on the same terms as C.W.J.C. No. 12504 of 2007 which has been disposed of as follows --

"In the above circumstances, this Court is of the opinion that the respondents have erroneously failed to consider the case of the petitioner for appointment with reference to 1995 panel in proper perspective. The writ petition is accordingly disposed of with a direction to the District Magistrate, Saharsa (respondent no. 2) to consider the case of the petitioner for his appointment in the light of the observations made above, after affording an opportunity of hearing to both the petitioner as well as to



the respondent no. 6, expeditiously and preferably within a period of three months from the date of receipt/production of a copy of this judgment. While disposing of the matter, the respondent no. 2 shall regard to the statement made in paragraph 10 of the supplementary counter affidavit filed on behalf of the respondent nos. 2 and 3 to the effect that at present there are 53 vacancies of Group-D in Collectorate cadre.”

7. It is however made clear that if the petitioner is found fit for appointment, the authority shall make verification of his date of birth. If it is found that the petitioner’s date of birth is 25.01.1956 as stated in the writ petition and he has already crossed the age of superannuation, then he shall not be appointed to the post. If the petitioner is however found to be eligible, his appointment shall be subject to the condition that he shall not be entitled to any benefit for any period prior to his appointment.

8. The writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/BT

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