

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14743 of 2016

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Arun Kumar Mahto, Son of Lte Jagdish Mahto, resident of Mohalla- Azad Nagar,
Ward No. 20, Police Station- Madhepura, in the town and district of Madhepura.

.... Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Special Secretary, General Administration Department, Government of Bihar, Patna.
4. The Additional Secretary, General Administration Department, Government of Bihar, Patna.
5. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
6. The Joint Secretary, Department of Finance, Government of Bihar, Patna.
7. The Divisional Commissioner, Kosi Division, Saharsa.
8. The District Magistrate, Madhepura.
9. The Deputy Development Commissioner-cum-President Department Promotion Committee, Madhepura.
10. The Deputy Collector, Establishment, Madhepura.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ranjit Kumar Singh, Adv.

For the Respondent/s : MD.Nadeem Seraj, GP5

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 10-03-2017

Heard Mr. Ranjit Kumar Singh, learned counsel for the
petitioner and Mr. Nadeem Seraj, GP-5, for the State.

A rather innocuous prayer has been made by the petitioner in
this writ petition requiring the respondents to discharge their
obligation of passing appropriate orders on the seniority list so
prepared on 23.8.2014 of Group 'Gha' employees for the purpose of
promotion as Clerk in Group 'Ga' under Bihar Collectorate Clerical
Service (Appointment and Service Condition) Rules, 2011



(hereinafter referred to as 'the Rules') as amended from time to time.

Mr. Singh has invited attention of this Court to the seniority list so prepared for the purpose present at Annexure 6 to submit that the name of the petitioner appears at serial no.4 and he has been held qualified for such promotion. He submits that in between some amendments took place in the Service Condition Rules, whereby the qualification for appointment of Class III post was amended. He invites attention of this Court to the amendment made in Rule 6(i) of the Rules present at Annexure 3 to submit that the minimum qualification for entry on the post of Clerk has been determined as Intermediate Pass (10+2) or equivalent qualification alongwith knowledge of Computer Education and Computer Typing. He submits that subsequently Rule 5(i) also was amended vide Annexure 4 whereby 85% of the post of Lower Division Clerk was to be filled by direct recruitment and 15% of such post was to be filled by internal candidates who possessed minimum qualification for the post without requiring them to undergo any examination, on the basis of seniority. The amendment further stipulated that of the 85% post to be filled by direct recruitment, 10% would be reserved for compassionate appointment.

He next invites attention of this Court to Rule 8 which provides for promotional benefits and submits that the Rules stipulate



preparation of seniority list from amongst employees in Group 'Gha' having Matric Pass qualification.

The short submission that has been made by Mr. Singh to canvass the point on behalf of the petitioner is that even though minimum qualification for appointment on the post of Clerk was amended vide Annexure 3 but in the matter of promotion, the qualification has remained as such.

It is taking note of such anomaly that a Bench of this Court vide orders passed in the present proceeding required the Principal Secretary to explain the situation and when a number of affidavits have been filed, last of which was filed yesterday i.e. 9.3.2017 in which the anomaly has been accepted and it is informed that corrective measures have been taken for appropriately amending Rule 8 but the amendment is yet to take place. It is further the stand of the State that in view of amendments, the earlier seniority list has lost its meaning and that fresh list would be prepared. With reference to paragraph 8 of the counter affidavit filed on behalf of respondents no. 8 to 10 it is stated by Mr. Nadeem Seraj, learned State Counsel, that a fresh gradation list in the circumstances so explained, is under process.

Be that as it may, the situation as it stands is, that no final decision has been taken on the promotional process so initiated and



the concern of the petitioner is that he is to retire on 31.3.2017. The concern is genuine.

In the circumstances so discussed, I deem it proper to dispose of the writ petition with the direction to the District Magistrate, Madhepura to take a final decision on the promotion of 'Group D' employees to 'Group C' post for which process was started way back in the year 2014 and the reasons may be whatsoever but the process once started it should be taken to its logical conclusion in terms of the Rules which are in force and let thus, a final decision be taken within six weeks from the date of receipt/ production of a copy of this order.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.03.2017
Transmission Date	NA

