

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17717 of 2008

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1. Md. Anwar Khurshid, son of Md. Khursid Hussain, resident of village Bardani, P.S. Biharsharif, District Nalanda
2. Ram Nandan Choudhary, son of Haro Choudhary, resident of village Rampur Bhandari, P.S. Rahui, District Nalanda
3. Awadhesh Prasad, son of Sita Ram Sao, resident of village Babu Bazar, P.S. Giriyak, District Nalanda.
4. Ansar Ahmad, son of Abdul Zabbar, resident of village Chokari, P.S. and District Gaya.
5. Sanay Kumar, son of Sri Shyam Babu, resident of Mohalla Karbighaiya, P.S. Jakkanpur, District Patna.
6. Sunil Kumar Shastri, son of Om Chandra Mani Shastri, resident of village Oeywaw, P.S. Asthawan, District Nalanda.
7. Krishna Prasad, son of late Damri Prasad, resident of village Duriyapur, (Mathura Pur) P.S. Gurara, District Gaya.
8. Md. Zakir Hussain, son of Md. Islam, resident of village Bankh Biyapur, P.S. Danapur Cantt., District Patna.
9. Arun Kumar, son of Sri Ram Sharan Prasad, resident of village Sohwaipur, (Awdachack) P.S. Asthawan, District Nalanda.
10. Lalan Sharma, son of Sri Ram Eqbal Singh, resident of village Jamalpur, P.S. Korba, District Patna.
11. Laxmi Kant Pandey, son of Sri Chandramani Sharma, resident of village Oeywa, P.S. Asthawan, District Nalanda.
12. Mushan Lal, son of Sri Jwala Sahu, resident of Rampur Bhandari, P.S. Rahui, District Nalanda.

.... Petitioners

Versus

1. The State of Bihar through the Secretary-cum-Commissioner, Health Services, New Secretariat, Patna.
2. The Director in Chief, Health Services, Government of Bihar, Patna.
3. The Deputy Director Administration (Health Services), Government of Bihar, Patna.
4. The Deputy Director (T.B.), Health Services, Government of Bihar, Patna.
5. The Bihar Public Service Commission through its Secretary, 15, Bailey Road, Patna (hereinafter referred to as BPSC).

.... Respondents

With

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Civil Writ Jurisdiction Case No. 16264 of 2008

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1. Shashi Kumar, son of Sri Satya Narain Singh, resident of village Keora, P.S. Punpun, District Patna.
2. Satyendra Kumar Singh, son of Late Dwarika Singh, at Phothi, P.S. Punpun, Patna, District Patna.



3. Umesh Chandra Patel, son of late Rampukar Patel, at Sanchipatti, P.S. Hayipur Town, District Vaishali.
4. Satish Kumar Ambastha, son of Gokul Prasad, At and P.O. Jiar, P.S. Asthawan, District Nalanda.
5. Rajendra Prasad Singh, son of late Kauleshwar Singh, at Untta, P.S. and District Jehanabad.
6. Nawal Kishore Prasad, son of Chandeshwar Prasad, At and P.O. Dharmapur, P.S. Kako, District Jehanabad.
7. Jaideo Kumar, son of Bhrigunath Sharma, at and P.O. Bhartu, P.S. Ghosi, District Jehanabad.
8. Dinesh Prasad Pal, son of Krishnanandan Prasad, At and P.O. Muther, P.S. and District Jehanabad.
9. Arbind Prasad, son of Rambaran Prasad, at Gaurapur, P.S. Parashbigha, District Jehanabad.
10. Saryu Prasad Singh, son of late Kuldeep Singh, at Gaurapur. P.S. Parashbigha, District Jehanabad.
11. Rabindra Kumar Sinha, son of Ram Ratan Prasad Sinha, at Matukbigha, P.S. Guraru, District Gaya.
12. Mahendra Prasad, son of Bigan Prasad, At Mahimapur, P.S. Guraru, District Gaya.
13. Sunil Pandey, son of Pawan Pandey, At & P.O. Deokali, P.S. Guraru, District Gaya.
14. Ashok Kumar, son of Munshi Singh, at Itwan, P.S. Guraru, District Gaya.
15. Raj Kumar Paswan, son of Jagnandan Paswan, at Bapu Nagar, Uttari Mandiri, P.S. Budha Colony, District Patna.
16. Md. Kamal Yusuf, son of Ainuddin Mallick, at Ansar Nagar, District Nawada.
17. Balram Prasad, son of Brijnandan Prasad, at Mainpura, (Baghicha), P.S. Patliputra, District Patna.
18. Rambali Singh, son of Syamsundar Singh, at Saraiya, P.S. Punpun, District Patna.
19. Gopal Sharan Singh, son of Jagdeo Singh, At and P.O. Gangachak, P.S. Mashourhi, District Patna.
20. Awanendra Kumar, son of Dwarika Singh At Sarbahdi, P.S. Mashaurhi, District Patna.
21. Arbind Kumar Purbey, son of Dyanand Purbey, At and P.O. Bithan, P.S. Bithan, District Samastipur.
22. Ramsagar Mahto, son of Bindi Mahto, At Bishanpur, P.S. Samastipur, District Samastipur.
23. Ashok Kumar Singh, son of Ramjanam Singh, At Karjan, P.S. Athmalgola, District Patna.
24. Umesh Kumar, son of Surendra Prasad Singh, At and P.O. Nirpur, P.S. Athmalgola, District Patna.
25. Sumindar Chaudhary, son of late Deonandan Choudhary, At Atarpura, P.S. Dhanarua, District Patna.
26. Yogendra Singh, son of Late Bishnu Singh, At Rahimapur, District Vaishali.
27. Bhagwaticharan, son of Prasadi Mahto, At Basanpur, P.S. Rahi, Nalanda.
28. Anil Kumar Sinha, son of Late Puran Singh at Serpur, P.S. Asthawan, District Naanda.
29. Yadunandan Prasad, son of late Kalicharan Mahto, At Chauria Sosandi, P.S. Harnaut, District Nalanda.



30. Anil Kumar Sinha, son of late Ramu Mahto, At and P.O. Thampa, P.S. Barh, District Patna.
31. Ram Pravesh Singh, son of Deonath Singh At Keora, P.S. Punpun, District Patna.
32. Md. Anzar Ahmad, son of late Md. Zakir Hussain, At Chamankhaira, P.S. Chabilapur, District Nalanda.
33. Md. Taslim, son of late Md. Tahir Hussain, At and P.O. Dharampur Bandey, District Samastipur.
34. Devendra Prasad Sao, son of Mitha Sao, resident of Bariyapur, P.S.Gaurichak, District Patna.

.... Petitioners

Versus

1. The State of Bihar through the Secretary-cum-Commissioner, Health Services, New Secretariat, Patna.
2. The Director-in-Chief, Health Services, Government of Bihar, Patna.
3. The Deputy Director Administration (Health Services), Government of Bihar, Patna.
4. The Deputy Director (T.B.), Health Services, Government of Bihar, Patna.
5. The Bihar Public Service Commission through its Secretary, 15, Bailey Road, Patna (hereinafter referred to as BPSC).

.... Respondents

with

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Civil Writ Jurisdiction Case No. 16934 of 2008

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1. Jaibabu Singh, son of Late Sanjogan Singh, resident of village Keura,(Dhanki), P.S. Punpun, District Patna.
2. Arbind Prasad, son of Late Keshav Mahto, resident of village Jhamadih, P.S. Noorsarai, District Nalanda.
3. Ravindra Prasad, son of Sri Yadu Prasad, resident of village Daniawan, (Soniam), P.S. Ekangarsarai, District Nalanda.
4. Shashidhar Kumar Pandey, son of late Kanhai Pandey, resident of village Gomhar, P.S. Ekangarsarai, District Nalanda
5. Rakesh Kumar Sinha, Son of Amir Chand Prasad, resident of Rajiv Nagar, Road No. 14, P.S. Digha, District Patna.
6. Sudhanshu Bhushan, son of Krishna Mohan Peyare, resident of Dariapur Gola, P.S. Kadamkuan, District Patna.
7. Balram Prasad, son of Late Brijnandan Prasad, resident of Mainpura (Bagaicha), P.S. Patliputra, District Patna.
8. Suresh Prasad, son of late Jagannath Prasad, resident of village Rampur, P.S. Ekma, District Chapra.
9. Ramlall Singh, son of Late Bhadeshwar Prasad Singh, resident of village Sohali, P.S. Rajaun, District Bhagalpur.
10. Brajkishore Prasad, son of Hira Kishun Prasad, resident of village Baidrabad, P.S. Arwal, District Arwal.
11. Vinod Prasad, son of Late Kali Mahto, resident of village Mirnagar, P.S. Sarmera, District Nalanda.
12. Uma Devi, wife of Late Jyoti Prasad, resident of East Lohanipur, P.S.



Kadam Kuan, District Patna.

13. Haldhar Prasad Singh, son of Late Chintaman Prasad Singh At Gori Bishrampur, P.S. Karaili, District Bhagalpur.
14. Shatrusudan Kumar, son of Rajeshwar Prasad Singh, resident of Arya Kumar Road, Anup Lane, P.S. Kadam Kuan, District Patna.
15. Vijay Kumar, son of Shri Sachchidanand Sinha, resident of village Mirnagar, P.S. Sarmera, District Nalanda.

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna.
2. The Secretary-cum-Commissioner, Department of Health, Government of Bihar, New Secretariat, Patna.
3. The Director-in-Chief, Directorate of Health, Government of Bihar, Vikash Bhawan, Patna.
4. The Bihar Public Service Commission through its Secretary, 15 Bailey Road, Patna.

.... Respondents

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Appearance:

(In CWJC No.17717 of 2008)

For the Petitioners	:	Mr. Devendra Kumar Sinha, Sr. Advocate Mr. Kripa Nand Jha, Advocate
For the Respondents	:	Mr. Prem Ranjan Kumar, AC to AAG IX
For the BPSC	:	Mr. Satyabir Bharti, Advocate

(In CWJC No.16264 of 2008)

For the Petitioners	:	Mr. Devendra Kumar Sinha, Sr. Advocate Mr. Kripa Nand Jha, Advocate
For the Respondents	:	Mr. Prem Ranjan Kumar, AC to AAG IX
For the BPSC	:	Mr. Satyabir Bharti, Advocate

(In CWJC No.16934 of 2008)

For the Petitioners	:	Mr. Devendra Kumar Sinha, Sr. Advocate Mr. Kripa Nand Jha, Advocate
For the Respondents	:	Mr. Prem Ranjan Kumar, AC to AAG IX
For the BPSC	:	Mr. Satyabir Bharti, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-08-2017

Heard the parties.

2. By order dated 27.02.2017 passed in S.L.P. (C) No. 4294 of 2017, the Apex Court has required this Court to dispose of the Writ Petition in CWJC No. 17717 of 2008 expeditiously. Hence the matter



has been taken up out of turn for hearing and disposal. CWJC No. 16264 of 2008 and CWJC No. 16934 of 2008 are analogous matters and are also being disposed of by a common order with the consent of parties.

3. The main relief sought in these writ applications is for a direction to the respondents to appoint the petitioners on the posts of BCG Team Leader/BCG Technician, as the case may be, in accordance with the select list prepared by the Bihar Public Service Commission.

4. Learned Senior Counsel for the petitioners submits that the respondents have been making appointments by pick and choose method, ignoring the case of the petitioners. It is averred that similarly situated persons who were selected in the same selection process have been appointed, but the petitioners are being sidelined. A specific statement has been made in the supplementary affidavit filed on behalf of the petitioners in CWJC No. 16264 of 2008 that the petitioners of Civil Review No. 133 of 2003 are continuing on their respective posts, and the present petitioners are equally entitled to be so appointed. It is further pointed out that one Manjeet Kumar, having been selected in the same selection process, has also been appointed on the post of Health Visitor and is continuing on the said post.

5. The stand of the petitioners with regard to appointment of other similarly situated persons aforesaid has not been denied or controverted on behalf of the State.

6. It is trite law that there can be no discrimination by the State and similarly situated persons must be treated at par in matters



of appointment.

7. Without entering into any controversy, these applications are disposed of with a direction to the respondents to consider the case of the petitioners for appointment to the post of BCG Team Leader/ BCG Technician in accordance with law, having regard to the recommendations of the Bihar Public Service Commission.

8. It is made clear that any appointment as may be made in pursuance of the present judgment shall abide by the final outcome of the related cases pending before the Apex Court.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.08.2017
Transmission Date	N.A.

