

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12449 of 2010

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1. Pramod Kumar Gond @ Pramod Gond S/O Sri Kanhai Prasad Gond R/O Vill.- Doghara, P.O.- Bihiyan Chaurasta, P.S.- Bihiyan, Distt.- Bhojpur
 2. Ramjee Gond @ Ramjee Ram Gond S/O Jagdish Gond @ Jagdish Ram Gond R/O Vill.- Amrai Nawada, P.O.- Amrai, P.S. Bihiyan, Distt.- Bhojpur
 3. Sarju Prasad Gond @ Shambhu Nath Prasad Gond @ Tarkeshwar Sao R/O Vill.+P.O.- Kalyanpur, P.S. Bihiyan, Distt.- Bhojpur
 4. Satish Kumar Gond S/O Bijay Kumar Gond R/O Vill.- Doghara, P.S. Behiyan, P.O. Behiyan, Chaurasta, Distt.- Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Personnel Department, Govt. of Bihar, Patna
3. The Commissioner, Patna Division, Patna
4. The District Magistrate, Bhojpur, Arrah

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. K.N. Chaubey, Sr. Advocate
Mr. Din Bandhu Singh

For the Respondent/s : Mr. Sriram Krishna, A.C. to SC-11

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 18-06-2018

The present writ petition has been filed to direct the respondents to appoint the petitioners on the post of peon or any other post for which they are entitled against the Scheduled Tribe quota on the backlog vacancies.

The short facts of the case are that the petitioners herein are Ummidwar peon working under the collectorate, Ara since long. The petitioners are said to have been working since the year 1997-99. It has been further stated that in the year 2006, the Commissioner, Patna Division, approved the roster for appointment of 04th grade employees



for the district of Bhojpur through letter dated 1609 dated 18.11.2006 wherein 12 backlog post of Scheduled Tribe were shown. However, in the letter dated 07.05.2007 the said 12 backlog post were revised to one post. Thereafter the petitioners are said to have raised the issue before the Commissioner, Patna Division, Patna who had sought a report from the District Magistrate, Bhojpur, Ara and the said District Magistrate by his letter dated 12.6.2010 had informed the Commissioner, Patna Division, Patna that according to the approved roster, there is no vacancy of any backlog post under the Scheduled Tribe category.

The learned senior counsel for the petitioners has submitted that the said letter dated 12.6.2010 issued by the District Magistrate, Bhojpur, Ara is based on verbal instructions of the Officers, which has led to illegal depiction of there being no post under the backlog category pertaining to the Scheduled Tribe class.

The learned counsel for the State referring to the counter affidavit and supplementary counter affidavit filed on behalf of the respondents has submitted that there was no roster point in between the years 1953 to 1973 and prior to 1973 the calculation of availability of post were on the basis of percentage i.e. SC-14 %, S.T.-10% and so on and so forth. It has been further submitted that in the District of Bhojpur, there was a meager population of Scheduled Tribe and since



the percentage of posts in the S.T. category was more, there was backlog. The backlog of 11 post was continuing for the period 1953 to 1973. Thereafter, roster point started in the year 1973 vide circular no. 5305 dated 10.4.1993 and during the course of preparation of roster clearance, on account of mistake, persons of reserved category, who had been appointed on unreserved post, were also treated as reserved category and consequently had been counted as backlog post resulting in wrong figure being depicted in the proposal of roster clearance sent by the respondent no. 4 to the respondent no. 3 resulting in issuing of incorrect letter no. 1609 dated 18.11.2006. The learned counsel for the State has further submitted that after the mistake was detected the authorities were directed to correct the same whereafter a revised roster point proposal including the calculation of backlog was prepared afresh and the said revised roster point proposal was sent to the respondent no. 3 for approval, who approved the same vide letter dated 26.9.2008 and from the said revised approved roster point, it is clear that not a single post is vacant as far as the Scheduled Tribe candidates are concerned.

I have heard the learned counsel for the parties and perused the materials on record. I find that according to the averments made by the respondents in their counter affidavit/supplementary counter affidavit, it has been categorically stated that there is no vacant post



under the Scheduled Tribe category, hence the petitioners cannot be accommodated. This assertion of the respondents has not been controverted by the petitioners. Moreover, the letter dated 12.6.2010 written by the District Magistrate, Bhojpur, Arrah to the Commissioner, Patna Division, Patna has also not been challenged by the petitioners herein.

Having regard to the facts and circumstances of the present case as also the uncontroverted position on fact to the effect that since prior to the filing of the present writ petition, there is no vacant posts under the Scheduled Tribe category, no relief can be granted to the petitioners as far as their appointment on the post of peon against the backlog post is concerned.

The present writ petition being devoid of any merit is dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.07.2018
Transmission Date	N/A

