

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17557 of 2016

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1. Bihar Police Association, Branch- Bihar Fire Services, Budh Marg, Lodipur, Patna through its Secretary Surendra Singh
 2. Sudhir Kumar Singh S/o Sri Joginder Prasad Singh President, Bihar Police Association, Branch- Bihar Fire Services, Budh Marg, Lodipur, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Director General-cum- Maha Samadesta, Home Guard & Fire Services, Bihar, Patna.
4. The Principal Secretary, Home Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Adv

For the Respondent/s : Mr. Prabhat Kumar Verma- AAG-3

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-09-2018

The present petition in the form of Public Interest Litigation has been filed by the petitioners herein for an appropriate order/direction, directing the



respondents to fill up the vacant posts of Director-cum-State Fire Officer, Assistant State Officer, Divisional Fire Officer, Assistant Divisional Fire Officer, Fire Station Officer (S.I.), Sub Officer (A.S.I of Police rank), Pradhan Agnik (Hawaldar), Pradhan Agnik Chalak(Hawaldar Driver), Agnik Chalak (Constable Driver) and Agnik Constable in the State of Bihar.

The case on behalf of the petitioners is that number of aforesaid posts are vacant since many years and all the aforesaid posts are emergency posts which are required to be filled in at the earliest.

In response to the notice issued by this Court, Mr. P.K. Verma, learned A.A.G-3 has appeared on behalf of the respondent State.

A counter affidavit dated 28.08.2018 sworn by the Under Secretary, Home Department(Police Branch) has been filed in which the particulars with regard to the vacant posts in the State Fire Department are given and the efforts of the State Government



proposed to take action for filling up the respective posts in the State Fire Department which reads as under:-

"(A) **State Fire Officer-cum-Director**- There is one post of State Fire Officer in Bihar State Fire Service which is to be filled up by promotion. At present no suitable officer is available for promotion to the post of State Fire Officers nor there possibility of availability of eligible officer in the cadre in near future so, in earlier counter affidavit it was submitted that it was decided to fill up this post by appointment on contractual basis.

It was also brought into kind notice of the Hon'ble Court that the State Level Selection Committee under the Chairmanship of Chief Secretary, Bihar was convened on 30.11.2017 for selection of State Fire Officer-cum-Director on contractual basis. The recommendation of the State Level Selection Committee was received.

The recommendation of State Level Selection Committee for appointment of State Fire Officer was placed before the Hon'ble Chief Minister for approval. The Hon'ble Chief Minister was pleased to decline to approve the recommendation as the post of State Fire Officer is post of head of the department and it should not be filled by a person on contract. Consequently, the Home Department (Police Branch) vide letter No. 138 dated



05.01.2018, communicated the decision of the State Government with respect to the appointment of the State Fire Officer on contractual basis to Director General-cum-Commandant, General Fire Services and requested him to send a proposal for giving charge of State Fire Officer to Officer of the rank of Deputy Inspector General. Pursuant to aforesaid letter No. 138 dated 05.01.2018, The Director General-cum-Commandant, General Fire Services vide letter No. 15 dated 16.01.2018 assigned the work of State Fire Officer-cum-Director to Sri Rattan Mani Sanjeev, DIG, Home Guards and Fire Services.

(B) Assistant State Fire Officer:-

It was already placed before this Hon'ble Court that there is one post of Assistant State Fire Officer in the Bihar State Fire Service. It was promotional post for Divisional Fire Officer. At present, no eligible officer is available in the feeder cadre for promotion to this post.

(C) Divisional Fire Officer :-

There is one post of Divisional Fire Officer in the State Fire Service. This is promotional post required to be filled by promotion. At present no suitable/eligible officer for promotion to the post of Divisional Fire Officer is available in the Bihar State Fire Service. So an advertisement was published inviting application from eligible and desirous candidates for appointment on the post of Divisional Fire Officer on contractual basis. In response to aforesaid advertisement, only two applications



were received. The State Fire Officer-cum-Director vide letter No. 1452 dated 21.05.2018 requested the Director General of Police, UP, Lucknow to send the annual confidential report, work appraisal report and punishment if any awarded to the applicant Sri Chandrashekhar Sharma, retired Officer from UP, Fire Services. Reminders were also sent vide letter No. 1953 dated 17.07.2018 and letter No. 2053 dated 31.07.2018. The required information from DGP, UP is still awaited.

Similarly, the State Fire Officer-cum-Director vide letter No. 1453 dated 21.05.2018 requested the Director, Delhi Fire Services to send the annual confidential report, work appraisal report and punishment if, any, awarded to other applicant Sri Suresh Singh, retired Assistant Divisional Officer/Divisional Officer of Delhi Fire Services. Reminders were also sent vide letter No. 1952 dated 17.07.2018 and letter No. 2052 dated 31.07.2018. The required information from Director, Delhi Fire Services is still awaited. Further action will be taken after receipt of required information from the aforesaid organizations.

(D) **Assistant Divisional Fire Officer**:- There are four posts of Assistant Divisional Fire Officer in the Bihar State Fire Service. This is also a promotional post required to be filled by promotion. At present no suitable/eligible officer for promotion to the post of Assistant Divisional Fire Officer is



available in the Bihar State Fire Service. So, an advertisement was published in Daily Newspaper Dainik Bhaskar on 31.01.2018 inviting application from eligible candidates for appointment on the post of Assistant Divisional Fire Officer. In response to aforesaid Advertisement no application was received. It has already been pointed out that the Fire Services is relatively small organization in entire country, so it is difficult to get experienced person eligible for appointment on deputation or contractual basis.

*(E) **Fire Station Officer**:- There are 107 sanctioned posts of Fire Station Officer in the Bihar State Fire Service. 50% posts of Fire Station Officers are required to be filled up by direct recruitment and 50% of the posts are required to be filled up by promotion.*

*(i) **Direct Recruitment**:- Against 48 vacancies of Fire Station Officer for which selection process was done, the Bihar Staff Selection Commission vide letter No. 2093 dated 09.08.2018 recommended only name of 11 candidates found eligible for appointment. The process of appointment of 11 recommended candidates is under process. Requisition will be sent soon to the selection body to issue a fresh advertisement for the remaining posts.*

*(ii) **Promotion**:- With respect to filling up vacancies of Fire Station Officers by promotion, it is submitted that 47 eligible officers have been*



promoted vide office order No. 172 dated 17.05.2018 of State Fire Officer-cum-Director Fire Services, Bihar. For filling of rest 3 available vacancies to be filled by promotion, proposal to condone Kalawadhi (minimum time period for promotion) is in process. Promotion against these posts will be finalized soon.

*(F) **Fire Station Sub Officer**:- At present there are 115 sanctioned posts of Fire Station Sub Officer in Bihar State Fire Service. Due to promotion to the post of Fire Station Officers from Sub Fire Station Officers 18 vacancies have arisen. Roster clearness for giving promotion to the eligible officers is under process. It is expected that promotion to these posts will be granted soon.*

*(G) **Agnik Driver**:- Against the requisition for selection against 969 posts of Agnik Driver, the Central Selection Board (Constable Recruitment) vide letter No. 491 dated 20.02.2018 informed that advertisement inviting application for selection was published. The Central Selection Board (Constable Recruitment) also published the result of the written examination on 20.08.2018. The Physical Evaluation Test is expected to be held in the month of October, 2018.*

*(H) **Agnik (Constable)**:- As per the requisition sent to Central Selection Board (Constable Recruitment) For selection of 1965 Agnik (Constable), the Central Selection Board (Constable Recruitment) vide letter No. 722 dated 26.05.2018 reported that advertisement*



inviting application from desirous candidates has been published. Selection process is expected to be completed within one year."

It is further submitted that due to the none filling up the posts of Agnik Driver, the work of the fire fighting is not hampered. It is stated that the services of 288 Drivers have been obtained from the State Tourism Development Corporation, Bihar which is the Nodal Agency for procurement of Drivers.

Having heard the learned counsel for the respective parties and considering the counter affidavit/supplementary counter affidavit filed on behalf of the respondent State, it is not in dispute and cannot be disputed that number of posts are vacant in the State Fire Department, which shall not be in the larger public interest. It is pointed out in the supplementary counter affidavit that the steps are being taken to fill up the vacant posts in the State Fire Department as stated above.

Under such circumstances, we dispose of the



present petition with the following directions:-

(i) So far as the posts of Director-cum-State Fire Officer; Assistant State Fire Officer; Divisional Fire Officer; and Assistant Divisional Fire Officer are concerned, all efforts shall be made by the State Government, including inviting applications on all India basis, to fill up the aforesaid posts at the earliest and the State Government is directed to see that all the aforesaid vacant posts are filled in by eligible candidates.

(ii) So far as the vacant posts of Fire Station Officer are concerned, the State Government is directed to make appointment of 11 recommended candidates who were selected through direct recruitment process and complete the same on or before 30th of November, 2018. For rest vacant posts of Fire Station Officer to be filled in by direct recruitment process, requisition shall be sent to the Selection Body to issue a fresh advertisement within a



period of four weeks from today and thereafter the Selection Body shall make appointment at the earliest.

So far as the posts of Fire Station Officer which are required to be filled in by promotion are concerned, the rest of the vacant posts shall be filled in on or before 30th of November, 2018.

(iii) So far as the vacant posts of Fire Station Sub Officer which are required to be filled in by promotion are concerned, it shall be filled in by promotion on or before 30th of November, 2018.

(iv) So far as the vacant posts of Agnik Driver are concerned, as it is reported that the Central Selection Board (Constable Recruitment) has published the result of written examination held on 20th of August, 2018 and the Physical Evaluation Test is expected to be held in the month of October, 2018, it is directed to fill up the vacant post of Agnik Driver on or before 30th of November, 2018.

(v) So far as post of Agnik (Constable) is



concerned, the State Government is directed to see that the selection process for the aforesaid post is completed by the Selection Board and the appointments are made on or before 30th of June, 2019.

With the above directions, the present petition stands disposed of.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13/09/2018
Transmission Date	

