

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.966 of 2013

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1. KRISHAN MURARI KUMAR S/O LATE SAUDI SINGH R/O VILLAGE- KHANWAN, P.S.- NARHAT, DISTRICT- NAWADAH
 2. ASHOK KUMAR S/O SRI BALESHWAR PRASAD R/O VILLAGE- LAXMIPUR, P.O.- SAMEYAGARH, P.S.- GHOSHWARI, DISTRICT- PATNA

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary Government Of Bihar, Patna
2. The Principal Secretary General Administration Department, Government Of Bihar, Old Secretariat, Patna
3. The Director General (Cabinet) Vigilance Department, Government Of Bihar, Patna
4. The Bihar Public Service Commission Through Its Chairman 15, Jawahar Lal Nehru Marg, Patna-1
5. The Chairman The Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Patna-1
6. The Secretary The Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Patna-1
7. The Controller Of Examination The Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Patna-1
8. The Bihar State Staff Selection Commission Through Its Secretary, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 24842 of 2013

1. ASHOK KUMAR DESHMUKH SON OF LATE RAMADHAR DESHMUKH RESIDENT OF MUHALLA- NEW KARMANTOLA, ARA P.S.- NAWADA, ARA, DIST.- BHOJPUR, BIHAR- 802301 MOBILE- 9931062654
2. ABHAY KUMAR SINGH SON OF LATE DEVANANDAN SINGH RESIDENT OF OLD JUDGE'S COMPOUND SOUTH RAMANA ROAD, ARA DIST.- BHOJPUR, BIHAR- 802301
3. SUBHASH KUMAR SINGH SON OF SRI AKSHAY LAL SINGH RESIDENT OF VILLAGE- PAIGA POST- GUDDI P.S.- BARAHARA DIST.- BHOJPUR, BIHAR
4. NIRANJAN KUMAR SRIVASTVA SON OF LATE MANOHAR LAL RESIDENT OF- MAULLA BAGH, ARA P.S.- NAWADA, ARA DIST.- BHOJPUR, BIHAR
5. VINOD KUMAR SINGH SON OF LATE PERMESHWAR SINGH RESIDENT OF MUHALLA- BANDHAN TOLA, ARA P.S.- NAWADA, ARA DIST.- BHOJPUR, BIHAR
6. SATYA DEO NARAYAN SINGH SON OF LATE VASISTHA NARAYAN SINGH RESIDENT OF MOHALLA- BANDHAN TOLA, ARA P.S.- NAWADA, ARA DIST.- BHOJPUR, BIHAR



7. RAJU PRASAD MEHTA SON OF LATE MOTILAL MEHATA
RESIDENT OF MUHALLA- PAKARI, ARA P.S.- NAWADA,
ARA DIST.- BHOJPUR, BIHAR
8. SANJAY KUMAR DESHMUKH SON OF LATE RAMADHAR
DESHMUKH RESIDENT OF- KARMAN TOLA, ARA P.S.-
NAWADA, ARA DIST.- BHOJPUR, BIHAR
9. NAZMUL HASSAN SON OF MD. HASSAN RESIDENT OF
MUHALLA- KARMAN TOLA, ARA P.S.- NAWADA, ARA
DIST.- BHOJPUR, BIHAR
10. JITENDRA KUMAR SON OF SURENDRA MOHAN PD.
RESIDENT OF MAULLA BAGH, ARA P.S.- NAWADA, ARA
DIST.- BHOJPUR, BIHAR
11. SUSHIL KUMAR SHARMA SON OF LATE DANLA SHARMA
RESIDENT OF VILLAGE- GUDDI, VAISTYA TOLA POST-
GUDDI P.S.- BARAHARRA DIST.- BHOJPUR, BIHAR
12. ALOK KUMAR SINGH SON OF LATE SHAYAMA NAND
SINGH RESIDENT OF MUHALLA- CLUB ROAD, ARA P.S.-
NAWADA, ARA DIST.- BHOJPUR, BIHAR
13. KRISHNA SINGH SON OF SRI KEDAR NATH SINGH
RESIDENT OF MUHALLA- CLUB ROAD, ARA P.S.- NAWADA,
ARA DIST.- BHOJPUR, BIHAR
14. MD. MANZAR IMAM VARIS KHAN SON OF LATE MD. ALI
IMAM VARIS KHAN RESIDENT OF PATHAR TOLI, P.O.-
JAGDISHPUR P.S.- JAGDISHPUR DIST.- BHOJPUR, BIHAR

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Govt. Of Bihar, Patna
2. The Principal Secretary, General Administrative Department, Govt. Of Bihar, Patna
3. The Director General (Cabinet) Vigilance Department, Govt. Of Bihar, Patna
4. The Bihar Public Service Commission Through Its Chairman, 15 Jawaharlal Nehru Marg, Patna- 1
5. The Chairman, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Patna- 1
6. The Secretary, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Patna- 1
7. The Controller Of Examination, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Patna- 1
8. The Bihar State Sub-Ordinate Service Selection Board Through Its Secretary, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7676 of 2012

1. AMRENDRA KUMAR SON OF SRI SURENDRA KUMAR
SINGH RESIDENT OF MOHALLA - POSTAL PARK, INDIRA
NAGAR, ROAD NO. 7, P.S.- JAKKANPUR, DISTRICT - PATNA
2. BIDHUSHEKHAR PRASAD SHUDHANSHU SON OF LATE
SATAN RAM RESIDENT OF MOHALLA - SHEOPURI,



CHITKHORA, P.S.- GARDANIBAGH, P.O. ANISHABAD,
TOWN AND DISTRICT - PATNA

3. RAMESH RAM SON OF SRI BHIM RAM RESIDENT OF
PAHARPUR, DEVI ASTHAN, POLICE COLONY, P.S.-
ANISHABAD, TOWN AND DISTRICT - PATNA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE CHIEF SECRETARY,
GOVERNMENT OF BIHAR, PATNA
2. THE PRINCIPAL SECRETARY, GENERAL ADMINISTRATION
DEPARTMENT, GOVERNMENT OF BIHAR, OLD SECRETARIAT,
PATNA
3. THE JOINT SECRETARY, GENERAL ADMINISTRATION
DEPARTMENT, GOVERNMENT OF BIHAR, OLD SECRETARIAT,
PATNA
4. THE UNDER SECRETARY, GENERAL ADMINISTRATION
DEPARTMENT, GOVERNMENT OF BIHAR, OLD SECRETARIAT,
PATNA
5. THE BIHAR PUBLIC SERVICE COMMISSION THROUGH ITS
CHAIRMAN, 15, JAWAHAR LAL NEHRU MARG, PATNA - 1
6. THE CHAIRMAN, THE BIHAR PUBLIC SERVICE COMMISSION, 15,
JAWAHAR LAL NEHRU MARG, PATNA - 1
7. THE SECRETARY, THE BIHAR PUBLIC SERVICE COMMISSION, 15,
JAWAHAR LAL NEHRU MARG, PATNA - 1
8. THE CONTROLLER OF EXAMINATION, THE BIHAR PUBLIC
SERVICE COMMISSION, 15, JAWAHAR LAL NEHRU MARG, PATNA -
1

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 20968 of 2012

1. SANJAY KUMAR S/O SRI VISHWANATH SINGH R/O
VILLAGE- RASALPUR, P.S.- EKANGARSARAI, DISTRICT-
NALANDA
2. SHASHI KUMAR SINHA S/O LATE BHANU PRASAD R/O
MOHALLA- MATWARI, P.S.- HAZARIBAGH SADAR,
DISTRICT- HAZARIBAGH, JHARKHAND
3. ANIL KUMAR S/O LATE CHAMAN RAM VIDYARTHI R/O
VILLAGE- SILWAR KHURD, P.O.- JAGANNATH DHAM, P.S.-
HAZARIBAGH MUFASSIL, DISTRICT- HAZARIBAGH,
JHARKHAND
4. UDAY SHANKAR CHAURASIA S/O KISHORI PRASAD
CHAURASIA R/O VILLAGE- NEW AREA, YAMUNA PATH,
P.S.- NAWADA SADAR, DISTRICT- NAWADA
5. SANTOSH KUMAR S/O SRI AJAB ROY R/O VILLGE & P.O.-
BIRPUR, P.S.- JURAWANPUR, DISTRICT- VAISHALI
6. SANJEEV KUMAR SRI CHANDRA BHUSHAN SHARMA R/O
VILLAGE- PATAUNA, P.O.- SIDHIPUR, P.S.- PALIGANJ,
DISTRICT- PATNA



7. VINAY KUMAR SRI UMESH NARAYAN PANDEY R/O VILLAGE- HARDIAN, P.O.- ARERAJ, P.S.- ARERAJ, DISTRICT- EAST CHAMPARAN
8. PRADIP KUMAR S/O SRI SURYADEO PRASAD R/O VILLAGE & P.O.- BASAHI, P.S.- JANTA BAZAR, DISTRICT- SARAN AT CHAPRA
9. PRITHWI RAI S/O SRI RAM BILASH RAI R/O VILLAGE- GANJPUR, P.O. & P.S.- ATHMALGOLA, DISTRICT- PATNA
10. GAJENDRA PRASAD S/O LATE YUGAL RAI R/O VILLAGE- GANJPUR, P.O. & P.S.- ATHMALGOLA, DISTRICT- PATNA
11. NAGENDRA KUMAR S/O SRI RAM BABU SINGH R/O VILLAGE- GANJPUR, P.O. & P.S.- ATHMALGOLA, DISTRICT- PATNA
12. SHAILENDRA KUMAR SINGH S/O LATE BALMUKUND SINGH R/O VILLAGE & P.O.- BIRPUR, P.S.- JUDAWANPUR, DISTRICT- VAISHALI

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE CHIEF SECRETARY GOVERNMENT OF BIHAR, PATNA
2. THE PRINCIPAL SECRETARY GENERAL ADMINISTRATION DEPARTMENT, GOVERNMENT OF BIHAR, OLD SECRETARIAT, PATNA
3. THE JOINT SECRETARY GENERAL ADMINISTRATION DEPARTMENT, GOVERNMENT OF BIHAR, OLD SECRETARIAT, PATNA
4. THE UNDER SECRETARY GENERAL ADMINISTRATION DEPARTMENT, GOVERNMENT OF BIHAR, OLD SECRETARIAT, PATNA
5. THE BIHAR PUBLIC SERVICE COMMISSION THROUGH ITS CHAIRMAN 15, JAWAHAR LAL NEHRU MARG, PATNA-1
6. THE CHAIRMAN, THE BIHAR PUBLIC SERVICE COMMISSION, 15, JAWAHAR LAL NEHRU MARG, PATNA-1
7. THE SECRETARY THE BIHAR PUBLIC SERVICE COMMISSION, 15, JAWAHAR LAL NEHRU MARG, PATNA-1
8. THE CONTROLLER OF EXAMINATION THE BIHAR PUBLIC SERVICE COMMISSION, 15, JAWAHAR LAL NEHRU MARG, PATNA-1

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 245 of 2016

1. MOHAMAD DAUD, SON OF LATE DR. AZIJUL RAHMAN, RESIDENT OF VILLAGE SONDHANI VIA BHAGWANPUR (HAT) P.S. BHAGWANPUR (HAT), DISTRICT SIWAN.
2. DILIP KUMAR JHA, SON OF LATE GANESH JHA, RESIDENT OF VILLAGE KUWANGARHI, P.O. SUPOL JAMUA, P.S. SANGRAMPUR, DISTRICT MUNGER.

... .. Petitioner/s



Versus

- 1.The State Of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
- 2.The Principal Secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna.
- 3.The Joint Secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna.
- 4.The Under Secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna.
- 5.The Bihar Public Service Commission through its Chairman, 15, Jawahar Lal nehru marg, Patna-1.
- 6.the Chairman, the Bihar Public service commission, 15, Jawaharlal Nehru marg, Patna-1.
- 7.The Secretary, The Bihar Public Service Commission, 15, Jawaharlal Nehru marg, Patna-1.
- 8.the Controller of Examination, the Bihar Public Service Commissioner, 15, Jawahar Lal Nehru marg, patna-1.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 11667 of 2013

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1. ARUN KUMAR VERMA SON OF SRI SANT PRASAD
RESIDENT OF MOHALLA - PAKARI, POLICE STATION -
NAWADA ARA, DISTRICT - BHOJPUR
2. SUNIL KUMAR SON OF LATE RAJ KUMAR VISHWAKARMA
RESIDENT OF MOHALLA - ABARPUL ARA, POLICE
STATION - ARA TOWN, DISTRICT - BHOJPUR
3. MANOJ KUMAR SON OF SRI RAJESHWAR SINGH RESIDENT
OF MOHALLA - HANUMAN NAGAR KATIRA, POLICE
STATION - NAWADA ARA, DISTRICT - BHOJPUR
4. AJAY KUMAR SINGH SON OF LATE RAJ KISHORE
NARAYAN SINGH RESIDENT OF MOHALLA - OPPOSITE
BAJAR SAMITI (ABOVE NEW ERA SCHOOL) ANAITH,
POLICE STATION - NAWADA ARA, DISTRICT - BHOJPUR
5. KANCHAN KUMARI WIFE OF SRI AJAY KUMAR SINGH
RESIDENT OF MOHALLA - OPPOSITE BAJAR SAMITI
(ABOVE NEW ERA SCHOOL) ANAITH, POLICE STATION -
NAWADA ARA, DISTRICT - BHOJPUR
6. MANOJ KUMAR SINGH SON OF LATE PROF. BIRNDRA
KUMAR SINGH RESIDENT OF MOHALLA - NEW COLONY



PAKARI ARA, POLICE STATION - NAWADA ARA, DISTRICT
- BHOJPUR

7. AMITABH SON OF LATE RAM ROOP SINGH RESIDENT OF
MOHALLA - BLOCK ROAD NEAR BAJAJ SHOW ROOM
PAKARI, POLICE STATION - NAWADA ARA, DISTRICT -
BHOJPUR
8. SUNITA PANDEY WIFE OF SRI SUNIL DUTTA RESIDENT OF
MOHALLA - KANAK PURI, POLICE STATION - NAWADA
ARA, DISTRICT - BHOJPUR
9. SUNIL DUTTA SON OF LATE GANGA VISHNU RAI
RESIDENT OF MOHALLA - KANAK PURI, POLICE STATION
- NAWADA ARA, DISTRICT - BHOJPUR

... .. Petitioner/s

Versus

1. The State Of Bihar , Through The Chief Secretary, Government Of Bihar,
Patna
2. The Principal Secretary, General Administration Department, Government Of
Bihar, Patna
3. The Director General (Cabinet) Vigilance Department, Government Of Bihar,
Patna
4. The Bihar Public Service Commission, Through Its Chairman, 15, Jawahar
Lal Nehru Marg, Patna -1
5. The Chairman, Bihar Public Service Commission, 15, Jawahar Lal Nehru
Marg, Patna-1
6. The Secretary, Bihar Public Service Commission, 15, Jawahar Lal Nehru
Marg, Patna -1
7. The Controller Of Examination , Bihar Public Service Commission, 15,
Jawahar Lal Nehru Marg, Patna -1

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 6297 of 2013

1. ASHWINI KUMAR SINGH SON OF LATE RAM KARAN
SINGH RESIDENT OF VILLAGE + POST- ASANI, P.S.
UDWANT NAGAR, DISTRICT- BHOJPUR AT ARAH
2. RAMESH CHANDRA PRASAD SON OF LATE
BISHUNDHARNI THAKUR RESIDENT OF MOHALLA-
PAKARI, P.S. NAWADA ARAH, DISTRICT- BHOJPUR AT
ARAH

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Govt. Of Bihar, Patna



2. The Principal Secretary, General Administrative Department, Govt. Of Bihar, Patna
3. The Director General (Cabinet) Vigilance Department, Govt. Of Bihar, Patna
4. The Bihar Public Service Commission Through Its Chairman, Null 15 Jawaharlal Nehru Marg, Patna- 1
5. The Chairman, Bihar Public Service Commission, Null 15 Jawaharlal Nehru Marg, Patna- 1
6. The Secretary, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Patna- 1
7. The Controller Of Examination, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Patna- 1
8. The Bihar State Sub-Ordinate Service Selection Board Through Its Secretary, Patna

... ... Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 966 of 2013)

For the Petitioner/s : Mr. Satish Chandra Mishra, Adv
For the State : Mr. Ashok Kumar Gupta, AC to GP-10.

(In Civil Writ Jurisdiction Case No. 24842 of 2013)

For the Petitioner/s : Mr. Pramod Kumar, Adv and Mr. Atal Bihari Pandey, Adv

For the Respondent/s : Mr. SUBHASH PD. SINGH

(In Civil Writ Jurisdiction Case No. 7676 of 2012)

For the Petitioner/s : Mr. SHAILENDRA KUMAR DWIVEDI
For the Respondent/s : Mr. LALIT KISHOR AAGI

(In Civil Writ Jurisdiction Case No. 20968 of 2012)

For the Petitioner/s : Mr. Ajay Kumar Sharma, Adv & Mr. O.M. Prakash Singh, Adv

For the BPSC : Mr. Devendra Kumar Sinha, Sr. Adv & Mr. Anil Kumar Singh No. 1, Adv

For the State : Mr. K.P Yadav GP-11.

(In Civil Writ Jurisdiction Case No. 245 of 2016)

For the Petitioner/s : Mr. Surendra Mishra
For the Respondent/s : Mr. GP8- MANISH KUMAR

(In Civil Writ Jurisdiction Case No. 11667 of 2013)

For the Petitioner/s : Mr. Sanjay Kumar Singh, Adv
For the State : Mr. Sita Ram Yadav, GP-16.

(In Civil Writ Jurisdiction Case No. 6297 of 2013)

For the Petitioner/s : Mr. Mukesh Kumar Singh, Adv
For the BPSC : Mr. Ashok Kumar Singh Sr. Adv & Mr. Sanjay Pandey, Adv

For the State : Ms. Manisha Singh AC to GP-7

For the BSSC : Mr. Prabhat Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 22-03-2018



Heard learned counsel for the parties.

2. This writ petition under Article 226 of the Constitution of India has been filed for quashing the letter no. 17 dated 03.08.2011 along with report dated 03.08.2011(Annexure-17) submitted by Sri R.J.M. Pillai, the then Chairman of BPSC whereby he has found no error made in preparation of the merit list as well as in the list of recommendation of successful candidates for the post of Secretariat and its attached offices of Assistants pursuant to Adv. No. 1 of 1993. The petitioners have further prayed for an independent inquiry through an independent impartial agency with respect to preparation of merit list with further prayer to appoint the petitioner against the existing vacancies.

3. The case has a chequered history. On 09.11.1993, BPSC issued advertisement inviting application in prescribed proforma as contained in Annexure-2 of writ petition and in response to the said advertisement petitioners and many others applied and admit cards were issued for written examination on 29/30 June and results of 483 candidates in order of merit was published in 1995.

4. In terms of the order of Apex Court (Annexure-1), the respondents were obliged to indicate the total number of



vacancies of Assistant cadre up to 31st December, 1993 but only 591 vacancies were notified (Annexure-2), whereas vacancies were much more. BPSC only recommended 483 candidates as per Annexure-3.

5. C.W.J.C No. 8697 of 1997 was filed for a direction to the respondents to fill all the vacancies existing up to 31st December, 1993 which was disposed of by order dated 30.11.1999 (Annexure-5) and the matter was remitted to Secretary, Personnel and Administrative Reforms Department (Now General Administration Department) for re-calculation of actual number of vacancies.

6. In pursuance to the order, department constituted One Man Committee to trace out vacancies from 01.01.1989 to 31.12.1993 and One Man Committee calculated vacancies, and found 1449 vacancies in which 724 i.e. 50 per cent was to be filled up through Advertisement No. 1 of 1993, for which initially 483 candidates were recommended in 1995 and remaining 241 posts were to be filled up but only 161 vacancies were decided to be filled up which were allotted to the successor State of Bihar i.e. 2/3rd of vacancies after bifurcation of State of Bihar on 15.11.2000.

7. According to petitioners, 220 posts are still vacant



which are required to be filled up from the successful candidates of Advertisement No. 1 of 1993. The cut-off marks for 483 candidates of first phase result in the general category and reserved category were not published. The cut-off marks for General Category was 113, B.C. 111, M.B.C. 106, S.C. 97 and S.T. 92 and Female 107.

8. On 30th July, 2000, BPSC published result of 241 candidates (Second Phase) and according to the petitioner, four candidates of 1st Phase were also included in the result of Second Phase and result of 241 candidates also included, who were expelled from the examination or who were found using unfair means.

9. The petitioners filed C.W.J.C No. 7594 of 2000 to revise the merit list and for an inquiry with respect to malpractices in BPSC, and the same was disposed of by order dated 02.05.2008 and against the said order BPSC filed L.P.A. No. 518 of 2008, which was dismissed on 14.07.2008 and thereafter BPSC filed SLP before the Apex Court in Special Leave of Appeal (Civil) No. 26944 of 2008 and the matter was remanded to the High Court and thereafter BPSC filed Civil Review No. 03 of 2009 for modification of order dated 02.05.2008 and this Court by order dated 15.09.2010 disposed



of the review petition that the issues will be examined by Sri R.J.M. Pillai, retired Chief Secretary of Bihar and present Chairman of BPSC.

10. Petitioners have further submitted that by letter dated 09.03.2010, the Public Information Officer informed that out of total 153 candidates recommended by BPSC vide letter no. 388 dated 25.02.2004 record of altogether 26 candidates do not tally with the records available with BPSC.

11. M.J.C No. 1790 of 2012 was filed in which all the relevant facts were given regarding forgery in appointment and regarding posts of the aforesaid period which are still vacant and are to be filled up from successful candidates of Advertisement No. 1 of 1993. According to petitioner show cause was filed in the said M.J.C in which it was shown that at least 221 vacancies of the aforesaid period are still existing which are to be filled up from successful candidates of Advertisement No. 1 of 1993. It has been contended on behalf of the petitioners that in pursuance to Advertisement No. 1 of 1993, 483 candidates were recommended in 1995 in the First Phase but only 349 are working and as such 134 posts out of 483 remained vacant. In Second Phase against requisition of 161, only 153 candidates were recommended for appointment in 2004 out of which only



81 candidates joined in which appointment of seven candidates were found forged and as such cancelled, 134 and 87 posts are still vacant. Totalling the aforesaid vacancies of 134 and 87, it comes to 221 which are yet to be filled.

12. In the said contempt petition a show cause was filed and report of Sri R.J.M. Pillai was also brought on record in which it was stated that Sri R.J.M Pillai has not found any discrepancy in the recommendation made by the Commission and all entries in the related record were found to be correct. Report was dated 03.08.2011. The show cause filed in M.J.C No. 1790 of 2012, the Commission has admitted that forgery has been committed in appointment of 28 persons and recommendation of four persons have been cancelled by the Commission for the reason that the said four persons were also recommended in earlier result of 483 candidates. Forgery has been committed in recommendation of 28 candidates out of 153 recommended candidates by the BPSC. M.J.C No. 1790 of 2012 was dismissed by order dated 12.12.2012 ,with an observation that nature of inquiry suggested and required by the petitioners is not possible in present jurisdiction and if aggrieved by the report of Sri R.J.M. Pillai and his opinion, that it is factually incorrect, remedy lies in fresh writ petition and as such the



present writ petition was filed. It has lastly been submitted that the respondent authorities have not filled up permanent vacancies for the period from 01.01.1989 to 31.12.1993, which are to be filled up from the successful candidates of Advertisement No. 1 of 1993 and they are not taking any steps to fill up 221 vacancies of the aforesaid period and they are trying to fill those vacancies in subsequent Advertisement.

13. Respondent Nos. 1 and 2 have filed their counter affidavit in which they have stated that names of 483 successful candidates was published in June-1995 after receiving recommendation pursuant to Advertisement No. 1 of 1993 and they were appointed. CWJC No. 7594 of 2000 was filed by the present petitioners raising mass irregularity at the level of BPSC in the process of recommendation of successful candidates, which was disposed of on 02.05.2008 with a direction to BPSC to submit all records including tabulation register etc., regarding Advertisement No. 1 of 1993 to Personnel and Administrative Reforms Department, Government of Bihar, for verification, against which BPSC preferred L.P.A. No. 518 of 2008 which was dismissed on 14.07.2008 and BPSC filed S.L.P. No. 26944 of 2008 in Supreme court which was dismissed on 21.11.2008 giving liberty to the Commission to place its alternative



proposal for consideration before the High Court.

14. Pursuant to liberty granted by Apex Court, BPSC preferred Civil Review No. 3 of 2009 before the Patna High Court, which was disposed of on 15.09.2010. The High Court directed Sri R.J.M. Pillai, retired Chief Secretary of Bihar and the then Chairman of BPSC to look into the matter of alleged irregularities committed in Advertisement No. 1 of 1993 and submit a report after thorough inquiry. Sri R.J.M. Pillai submitted his report vide letter dated 03.08.2011, which was accepted by the Commission on 26.07.2011 and communicated to the General Administration Department, Government of Bihar, in which no irregularity was found on the part of Commission regarding Advertisement No. 1 of 1993.

15. One of the petitioner of this case filed M.J.C No. 1790 of 2012 and learned Single Judge by his order dated 12.12.2012 disposed of the contempt petition with an observation that the issue raised by the petitioner regarding irregularity in the examination of 1993, cannot be decided in this proceeding and the report of Sri R.J.M. Pillai Committee is that no irregularity was committed while conducting the selection pursuant to Advertisement No. 1 of 1993, and if the petitioner has any grievance he can take recourse in an



appropriate proceeding and the contempt petition was dismissed.

16. It has further been submitted that the petitioners claim their appointment in vacancy between 01.01.1989 to 31.12.1993 due to non joining of candidates and also vacancy arising out of the removal of seven L.D.C appointed against the post of Assistant in the list of second recommendation related to Advertisement No. 1 of 1993.

17. C.W.J.C No. 121341 of 2003 was filed challenging Government final order giving 241 vacancies to Advertisement No. 1 of 1993 and claimed that more vacancies should be given to Advertisement No. 1 of 1993 which was dismissed on 27.04.2005. L.P.A. No. 661 of 2005 filed against the said order was also dismissed on 05.09.2006 and thereafter petitioners moved the Apex Court to increase number of vacancies by filing S.L.P. No. 2057 of 2006, which was dismissed on 12.02.2007, as such the dispute as far as same relates to number of vacancies attained finality when the Supreme Court dismissed S.L.P.

18. It has further been submitted that after Advertisement No. 1 of 1993, appointments have already been made after recommendation made by BPSC in subsequent advertisement like Advertisement No. 22 of 1999,



Advertisement No. 23 of 1999 and Advertisement No. 135(A) of 1996 and thereafter available vacancies till 31.03.2010 was sent to Bihar Staff Selection Commission, Patna for 1100 Assistant posts in Secretariat and its attached offices.

19. The petitioners are unsuccessful candidates of Advertisement No. 1 of 1993, as they have got less marks than cut-off marks in their respective categories, and they were never declared successful against the Advertisement No. 1 of 1993 by BPSC.

20. It has been further submitted that recommendation of any candidate is not transferable and after receiving recommendation and completion of process of verification any recommended candidate is unwilling to be appointed or has not found suitable during verification is not transferable as contained in Memo No. 3/M-63/2005 resolution no. 2374 dated 16.07.2007 of General Administration Department, all such vacancies will have to be carry forward in the next year of vacancy. Remaining vacancies of Advertisement No. 1 of 1993, further appointments have been done vide Advertisement No. 22 of 1993 and 23 of 1993 and vacancies left of any advertisement either due to non joining of candidates or by others are carry forward to the next year vacancy and no such vacancy exist at



all.

21. Counter affidavit has been filed on behalf of respondent nos. 4 to 7 and its authorities, in which it has been sated that Commission published Advertisement No. 1 of 1993 for appointment of 591 posts of Secretarial Assistant but the vacancy was reduced to 483 in the light of order passed in Civil Appeal No. 5298 of 1993. Final result was published in the month of June-1995 and 483 selected candidates were recommended vide Commission's letter no. 131 dated 05.07.1995 for appointment to the post of Secretarial Assistant. Petitioners were not recommended as they were low in the merit list.

22. The Personnel & Administrative Reforms Department, Bihar vide its letter no. 660 dated 26.06.2000 in the light of direction given in CWJC No. 8697 of 1997 on 30.11.1999 by the High Court requested the Commission to make available recommendation for 241 posts of Secretarial Assistant under Advertisement No. 1 of 1993.

23. The Commission selected suitable candidates for the reported vacancies and published the result in July 2000 on the basis of earlier merit list and the same was sent to the department by Commission's letter dated 12.08.2000 but in this



list also petitioners name were not recommended as they were low in the merit list but the department returned the above recommendation in the light of new reservation policy of 2002 and requested to make available revised recommendation of 161 posts in the ratio of 2/3 of total reported 241 vacancies vide letter dated 26.07.2003 and 04.06.2003 in the light of order passed in CWJC No. 10627 of 2001 and L.P.A. No. 109 of 2002.

24. The Commission accordingly send recommendation against 161 vacancies i.e. 2/3 of total vacancies vide letter dated 16.10.2003. The department of Personnel and Administrative Reforms Department, Bihar again returned the recommendation by letter dated 20.12.2003 stating that appointment will be made according to old reservation policy and accordingly, Commission send recommendation of 153 suitable candidates instead of 161 posts vide letter dated 20.05.2004. The recommendation for 8 posts of Scheduled Tribe was not sent due to non availability of suitable candidates and also in light of letter dated 13.02.2004. It is relevant to state here that cut-off marks of different reservation categories under Advertisement No. 1 of 1993 are as follows:-

General (01)-111, S.C.(02)-96, S.T.(03)-88, M.B.C.



(04)-105, B.C.(05)-110 and B.C. Lady (06)-106.

25. CWJC No. 7594 of 2000 was filed by petitioner Krishan Murari Kumar and Others and the same was disposed of by High Court on 02.05.2008 with a limited prayer that BPSC may be directed to forward the original tabulation register and the connected records of the recommendation to the department of Personnel and Administrative Reforms, and thereafter direction to the department of Personnel and Administrative Reforms, to cross-examine the tabulation register and connected records of the recommendation who have already been appointed and to make fresh appointments after cross verification. The Commission filed L.P.A. No. 518 of 2008 against the said judgment which was dismissed on 14.07.2008 and thereafter Commission filed SLP (Civil) No. 26944 of 2008 before the Apex Court and the Apex Court dismissed the Special Leave Petition and directed the Commission to place its alternative proposal before the Single Judge of the High Court. Commission filed Civil Review No. 03 of 2009 in the High Court, which was disposed of with a direction that the issue will be examined by Sri R.J.M Pillai, retired Chief Secretary of the State of Bihar who was also the Chairman of BPSC.



26. Sri R.J.M Pillai examined the records of tabulation register and merit list and submitted his report to the Commission by letter dated 03.08.2011 and Commission did not find any discrepancy in the recommendation made by the Commission and the report was sent to General Administration Department as well as Vigilance Department. The Commission had sent the recommendation in two phases, first in the year 1995 of 483 candidates and second in the year 2004 against 161 reported vacancies, 153 suitable candidates were recommended vide letter dated 20.05.2004.

27. The department concerned requested for verification of applications of 147 candidates out of 153 recommended by letter dated 17.05.2005 and the Commission verified all 147 applications on the basis of record and applications of 120 candidates were found similar to the photocopy, and Commission was informed by letter dated 30.09.2005. The applications of 26 candidates were kept pending for consideration. The recommendation of four candidates Vinay Kumar Sinha, Nageshwar Sharma, Shambhu Prasad Gupta and Rajesh Kumar Shah was cancelled by Commission's letter dated 30.09.2004 and 08.04.2005. The application of three candidates Rajeev Kumar, Ajeet Kumar and



Rajesh Kumar were not sent for verification as the same were sent to the Commission for verification vide departments letter dated 08.10.2004. The department had requested to send application of Rajesh Kumar by letter dated 06.12.2004, as the same was lost in the department and thereafter photocopy of application of Rajeev Kumar and Ajeet Kumar were sent to the department vide letter dated 31.01.2005 and duplicate application of Rajesh Kumar was sent after verification by letter dated 08.04.2005 and verification of remaining 26 candidates were done by two officers committee nominated by the Chairman of the Commission and it was found that applications of 24 candidates were different from those of photocopies of first batch of the application of the concerned candidates and application of two candidates were found to be similar and the same was indicated to the department vide letter dated 05.09.2007.

28. Out of 24 candidates, seven have been terminated from service by the department vide memo dated 10.05.2012.

29. 2 out of rest 70 were found suitable and one appointed in the year 2004 never joined. The appointment process of rest 14 candidates was closed because they did not report for verification as apparent by letter dated 12.10.2012 of



the department.

30. From the facts as pleaded by the parties, it is apparent that Advertisement No. 1 of 1993 dated 09.11.1993 was issued by the BPSC for making selection on 591 posts of Secretarial Assistants and same was reduced to 483 by order of court and result of 483 candidates were published on 30.06.1995. CWJC No. 8697 of 1997 was filed for calculating vacancies from 01.01.1989 to 31.12.1993 and the same was disposed of on 30.11.1999 with a direction to the respondents for recalculation of actual vacancies for the aforesaid period and to fill up said vacancies.

31. In the light of the said judgment dated 30.11.1999 passed in CWJC No. 8697 of 1997, the vacancies were calculated from 01.01.1989 to 31.12.1993 which came to 724 vacancies and thereafter subtracting recommendation of 483 candidates, 241 vacancies were found available and names of 241 candidates was published by BPSC on 13.07.2000. CWJC NO. 7594 of 2000 was filed by some candidates challenging the determination of 724 vacancies out of which 241 vacancies were given in second phase in the year 2000 and claim that more vacancies were still available but the same was dismissed and LPA as well as SLP were also dismissed, as such no further



vacancies other than 241 as found by the department was to be filled pursuant to Advertisement No. 1 of 1993.

32. The recommendation of 241 candidates was restricted to 2/3 vacancies by successor State of Bihar which came to be 161 posts. BPSC had made recommendation for appointment of 153 candidates against 161 vacancies and 8 vacancies which belong to S.T. category was not recommended by the BPSC as there were no suitable candidates for recommendation against the said post.

33. Whatever discrepancy was found in result and recommendation was rectified and corrected by joint effort of General Administration Department and B.P.S.C and such incorrect recommendations have either been withdrawn or illegal appointees have been removed from service and after proper scrutiny only genuine candidates have been appointed and no complaint against such candidates have been made, as such this Court is not inclined to direct any further investigation by independent agency on such vague and unsubstantiated allegation.

34. It is true that as per court's order vacancies arising due to non joining of candidates was to be filled up from Adv. No. 1/93 but even in such circumstances petitioners could not be



appointed as they are low in merit list. The stand of the respondents that as per Memo No. 3/M-63/2005 resolution no. 2374 dated 16.07.2007 of General Administration Department that non-joining and other vacancies is to be carry forward to next year vacancy is not acceptable as same was issued in 2007 whereas present case relates to Adv. No. 1/93 and there was specific direction by Court to appoint candidates from list of 1993 advertisement including vacancies arising due to non joining.

35. It has lastly been submitted that in case there being admitted vacancy for the Advt. No. 1/93 after withdrawal and cancellation of appointment and non joining of candidates, petitioners be appointed against said vacancies as they are pursuing the matter for last many years and they are vigilant litigants ignoring the merit list cannot be accepted.

36. Subsequent examinations have already been conducted by BPSC and as such at present, there are no vacancy left for any further appointment to be made from Advertisement No. 1/93. The examinations were held in 1993 and first recommendation of 483 candidates was made in 1995 and second recommendations were made in the year 2004 and thereafter BPSC has conducted many examinations for



appointment on the post of Assistants, as such I am not inclined to exercise my discretionary writ jurisdiction to grant relief to the petitioners.

There is no merit in these writ petitions and are accordingly dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.04.2018
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