

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1016 of 2017

In
Civil Writ Jurisdiction Case No.13451 of 2013

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1. The State of Bihar, through the Principal Secretary, Cabinet Secretariat (Rajbhasa Directorate) Department, Patna.
 2. The Director, Cabinet Secretariat (Rajbhasa) Department (Urdu Directorate) Old Secretariat, Patna.

... .. Appellant/s

Versus

1. Md. Samiuddin, Son of Sri Slehuiddin, resident of Village and P.O. Maheshpatti, P.S. Ujiarpur, District-Samastipur.
2. Md. Haroon Rashid, Son of Md. Idris, resident of Nagmatia Colony, Road no. 4/B, near Masjid, Nagmatia Road, P.s.-Civil Line, Gaya, District-Gaya.
3. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellants : Ms. Kumari Amrita, G.P. 3

For the Respondents : Mr. Alok, Advocate.

Mr. Jitendra Kr. Rai, Advocate.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 03-10-2018

The State of Bihar/appellant is aggrieved by the judgment and order dated 06.09.2016 passed by the learned Single Judge in C.W.J.C. No. 13451 of 2013 whereby the writ petition of the Respondents No. 1 and 2 herein (original writ petitioners) was allowed by holding that they too are entitled to the same pay-scale of Rs. 4000-6000 as that of 239 candidates who were appointed as Urdu Typists and that same scale of pay ought to be given to them from the date of their appointment.



2. Pursuant to an advertisement issued on 19.01.1990, posts of 249 Urdu Typists in the pay-scale of Rs. 580-680 (revised to 1200-1800; then Rs. 4000-6000 and ultimately to 5200-20200 with pay band of Rs. 2400/-) were invited in which the original writ petitioners (Respondents No. 1 and 2 herein) had applied. In such recruitment process, 239 posts were filled up, leaving 10 posts vacant. Out of those 239 posts, five persons did not chose to avail of their appointment whereas names against five posts were repeated as those persons had filled up their forms from two different places.

3. To fill up the remaining vacancies, the original writ petitioners and others were directed to appear before the Director, Rajbhasha Department, Government of Bihar, Patna on 20.12.1993. They were further subjected to a test on 24.12.1993 for filling up 10 posts which were reserved for candidates belonging to Annexure-II category which was lying vacant from before. Again, a Special Selection Committee met on 29.12.1993 and decided to fill up the 10 (Annexure-II) vacancies on the basis of test which was held on 24.12.1993 as stated above. A decision also was taken to fill up the vacancies resulting from five candidates not joining the posts and the other five whose names were found to have been repeated. Again, a general notice was issued by the Special Selection Committee on



31.11.1993, listing the names of the original writ petitioners for filling up of those vacancies which had arisen because of candidates not joining on the posts of five candidates from the earlier selection list. Two other lists were brought out against the vacancies which had resulted due to duplication of names. However, no appointment letters were issued to the original writ petitioners, forcing them to knock the doors of this Court vide C.W.J.C. No. 1640 of 1997.

4. The learned Single Judge of this High Court while looking at the facts of the case found that out of 249 posts of Urdu Typists for which selection was undertaken, 60 posts were reserved for SC/ST candidates. For the paucity of candidates of the aforesaid categories, a proposal was mooted for de-reserving the posts which were, though not accepted, but 55 persons were appointed from the general category against 60 reserved posts for SC/ST candidates. The learned Single Judge was therefore of the view that the original writ petitioners ought to have been issued appointment letters and therefore ordered accordingly. The appeal against the aforesaid order of the learned Single Judge before the Division Bench as well as the S.L.P. before the Hon'ble Supreme Court could not be sustained.



5. The original writ petitioners were therefore appointed but on a reduced pay-scale of Rs. 3050-4590.

6. Defending the aforesaid appointment of the original writ petitioners on the reduced pay-scale, the appellant/State urged that the Hon'ble Supreme Court had directed that the case of the original writ petitioners be considered on merits and the State was given some space in the joints. It was because of such direction by the Hon'ble Supreme Court that the original writ petitioners were appointed as Lower Division Clerks as at that time, the post of Urdu Typist was not in existence because of the merger of the post of Typist with Lower Division Clerk as per the Finance Department Resolution No. 8826 dated 20.11.2000.

7. Only after three years of the appointment of the original writ petitioners, it has been argued by the State, that they started agitating for being given the same pay-scale of such Urdu Typists who were appointed earlier.

8. We have heard the learned counsel for the appellant/State and the respondents. The appointment of the original writ petitioners is from the same selection process and no separate advertisement was issued for filling up the posts on which appointment was given to the original writ petitioners. The order impugned passed by the learned Single Judge that the screening of the original writ



petitioners and others did not amount to a fresh selection process is absolutely correct and justified and calls for no interference. If the original writ petitioners were appointed from the same selection process, there is no reason to pay them lesser scale than their counterparts as it would be against the principles of fairness and equality.

9. Thus, there is no perversity in the order of the learned Single Judge in directing for making payment of same salary to the original writ petitioners which is being given to the other appointees of the same process.

10. The appeal has no merits and is, therefore, dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.10.2018
Transmission Date	09.10.2018

