

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19433 of 2018

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Shahjahan, Son of Late Shahidul Haque resident of Minhaj Nagar, Behind Sadrun Nisa Masjid, Phulwarisharif, P.O. and P.S. Phulwarisharif, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The Bihar Public Service Commission, through its Secretary, Bihar Public Service Commission, Patna.
3. The Registrar General, Patna High Court, Patna.
4. The Principal Secretary, General Administration Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Shahabuddin Azeem @ S. Azeem, Advocates Mr. Akshay Lal Pandit, Advocate
For the State	:	Mr. P.K. Verma, AAG-3
For the BPSC	:	Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-10-2018

1. By way of this petition under Article 226 of the Constitution of India the applicant has prayed for the following relief:-

“That the present writ petition has been preferred before this Hon’ble Court for issuance of writ, writs, order, orders, direction, directions specially with respect to the advertisement published vide Advertisement No. 06/18 dated 21.08.2018 for 30th Judicial Service,



wherein cut-off date has been fixed from 01.08.2013 is contrary in terms of the reservation provided from 28th Judicial Service after the direction issued by the Hon'ble Apex Court and in that view the reservation has been provided from 29th Judicial Service and in that terms the relaxation in age fit to be provided from 01.08.2012 to provide opportunity and natural justice to the candidates belonging to the reserve category and the same has not been made available from 28th Judicial Service appointment to avail legislation specifically to the reserve category aspirants.”

2. Shri Shahabuddin Azeem @ S. Azeem, learned Advocate appearing on behalf of the petitioner has submitted that as after the decision of the Hon'ble Supreme Court dated 29th September, 2016 passed in Civil Appeal No(s). 9921-9923 of 2016 confirming the reservation in the Subordinate Judicial Services and thereafter the present advertisement has been issued in the interest of Reserved Category Candidates, the age criteria/cut off date ought to have been fixed as 01.08.2012 instead of 01.08.2013. It is submitted that by providing the cut off date as 01.08.2013 and giving further relaxation in the age in respect of the candidates belong to the Reserved Category Candidates, virtually it can be said to be granting age relaxation



of four years only, which as such must be of five years.

3. Having heard the learned Advocates appearing on behalf of the respective parties and considering the impugned advertisement and the age criteria, it appears that for the General Category Candidates a candidate must be 22 years and above as on 01.08.2017 and less than 35 years as on 01.08.2013. For the Reserved Category Candidates 5 year's age relaxation is given and, therefore, a candidate belonging to Reserved Category must be of 40 years as on 01.08.2013. That for if the submission on behalf of the petitioner is accepted that the cut off date should be 01.08.2012 instead of 01.08.2013, in that case it can be said to be 6 year's age relaxation, which cannot be accepted.

3.1. Now, so far the submission on behalf of the petitioner that after the decision of the Hon'ble Supreme Court dated 29th September, 2016 passed in Civil Appeal No(s). 9921-9923 of 2016 by which the controversy with respect to the reservation in the Subordinate Judiciary/Judicial Service has put to an end and thereafter for the first time the advertisement has been issued, in the interest of candidates belonging to Reserved Category the cut off date should be as on 01.08.2012. However,



even from the judgment and order passed by the Hon'ble Supreme Court it appears that in the year 2012 the last advertisement was published and the applications were invited. That all the posts for which the advertisement in the year 2012 was issued has even come to be filled in. Therefore, the vacancies as on and from 21.08.2018 is considered and that is the reason why 01.08.2013 date is stated as cut off date.

3.2. At this stage, it is required to be noted that though the present advertisement was published in the month of August, 2018, the present petition has been preferred at the fag end of the month of September, 2018 and even the defects were removed thereafter and the present petition got circulated for admission hearing. Thus, when the present petition is filed after delay by which the recruitment process has already begun and even the last date for submitting the application is 09.10.2018.

3.3. Considering the aforesaid facts and circumstances, the prayer of the petitioner to direct the respondents to consider the cut off date as 01.08.2012 instead of 01.08.2013, as provided in the advertisement, cannot be accepted and the same deserves to be rejected and is accordingly rejected.



4. In view of the above and for the reasons stated above, the present petition fails and the same deserves to be dismissed and is accordingly dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	29.10.2018
Transmission Date	

