

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13145 of 2008

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Dwarika Choubey, son of Late Ram Kumar Choubey, resident of Village – Baheri,
P.O.- Akhlapur, P.S. – Bhabhua, District – Kaimur (Bhabua)

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Secretary, Raj Bhasha Department, Government of Bihar, Old Secretariat, Patna
3. The Secretary, Personnel and Administrative Reforms Department, Old Secretariat, Patna
4. The Chairman, Bihar Public Service Commission, Bailey Road, Patna.
5. Om Prakash Verma, Son of Shri Ramashish Prasad, R/o Village – Thana Bigha, PO Arahit Daulatpur, Bhaya-Bardhuganj, Dist – Jehanabad
6. Vinita Kumari, W/o Sanjay Kumar, “Shankar Bhawan”, Saristabad Road, Kachchi Talab, Gartdanibagh, Patna, Bihar – 800001
7. Ambika Prasad Mahto, S/o Late Manager Mahto, R/o Village – Nawada Mathiya, P.O. Nawada, Bhaya – Jalalpur, Distt. Chapra, Bihar
8. Rajendra Bhushan Das, S/o Shri Dharma Das Prasad Kannoujia, R/o village – Tangout PO – Hazipur, Dist – Vaishali, Bihar - 844101

.... Respondent/s

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Appearance :

For the Petitioner/s :

Mr. Nagendra Dubey, Advocate
Mr. R. K. Pathak, Advocate

For the State :

Mr. Kinkar Kumar, SC 9
Mr. Yogesh Kumar, AC to SC 9

BPSC :

Mr. Satyabir Bharti, Advocate
Ms. Aparna Arun, Advocate

For the Private Respondent No. 5 to 8 : Mr. Abhimanyu Sharma,
Advocate

Mr. Udaishankar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-04-2018

Heard learned counsel for the petitioner, learned
counsel for the State, and private respondents as well as Bihar
Public Service Commission.



In the present writ petition, the petitioner is claiming that he has wrongly been denied for the appointment of Assistant Grade III in Raj Bhasha Bibhag and sought a relief from this Court for issuance of mandamus to the Bihar Public Service Commission (hereinafter referred to as BPSC) to recommend his name and he should be appointed on that post.

Shorn of unnecessary facts but few relevant facts are, that Rajya Bhasha Department has sent a requisition for 18 posts of Assistant Grade. In pursuance there of, BPSC has issued an advertisement vide Advertisement No. 4 of 1989. Before the selection process could take its final shape the department again sent requisition of 12 posts and later on it was amalgamated, later on requisition of 30 posts were sent for the appointment, by that time department has taken roster clearance for 14 to 43 roster points for 30 posts as roster points 14 to 31 was meant for Advertisement No.4 of 1989. The BPSC has rejected the requisition of the department for 30 posts informed that the addition of 12 posts cannot be amalgamated to advertisement no. 4 of 1989, requested for the fresh requisition, in pursuance thereof fresh requisition was sent by the department, in pursuance thereof the BPSC has



published Advertisement No.32 of 1997, so advertisement no. 4 of 1989 remain confined to roster point for 18 posts i.e. roster point nos. 14 to 31 and advertisement no. 32 of 1997 was meant for 12 posts roster point nos. 32 to 43.

The BPSC out of 18 vacancies recommended only 16 names of the candidate, out of recommended 16 names 11 person only joined on the post, and filled up roster point 14 to 24. Before completion of selection of advertisement no.32 of 1997, the State of Bihar was bifurcated and accordingly 1/3rd vacancy had gone to the State of Jharkhand, so 8 posts remained with the State of Bihar and accordingly the BPSC sent the recommendation of 8 persons from roster point 25-32. In earlier advertisement roster points were starting from 32-43 but on account of only joining of 11 recommended persons now it started from roster point no.25 and ends at roster point no.32. In between roster points nos. 25-32 it consists 8 posts reflecting four vacancies for the unreserved category candidates and four vacancies of reserved category candidate from different classes. Accordingly four persons from unreserved category have been selected and they joined accordingly. The position of the petitioner is 6th in the general category. So in no imagination the petitioner can be



accommodated.

Learned counsel for the petitioner has placed reliance on the judgment in the case of The State of Bihar and others v. Arun Kumar, reported in 2005(4) PLJR 247 which stipulates that the selection is to be made to the entire vacant posts published in the advertisement, even after the bifurcation of the State of Bihar it will not erode number of vacancies advertised. This judgment as pointed out by the learned counsel for the State has been overruled in the case of The State of Bihar and others v. Shardendu Bhushan and others, reported in 2014(2) PLJR 553 wherein it has been held that in the intervening period some development has taken place on account of bifurcation of the State, it will affect number of vacancies in the matter of selection of candidate. So the preposition that has been laid down in the case of Arun Kumar (supra) is no longer hold field, selection will be confined to 8 posts as 4 posts had gone to the State of Jharkhand and accordingly as per roster point only four posts for unreserved category were available whereas the petitioner is at sl.no.6th cannot have any case, this Court cannot direct for recommending the name of the petitioner for appointment under unreserved category.



Accordingly this Court does not find any merit in this writ petition and the same is dismissed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	8.5.2018
Transmission Date	NA

