

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7290 of 2014

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1. Md Maksood Alam, Son of Sk Abbas, R/O Village- Ajhrail, P.S. Balrampur, District- Katihar
 2. Manik Lal Thakur Son of late Fagu Lal Thakur, R/O village- Kamra, P.S. Balrampur, District- Katihar
 3. Raquib Ahmad Son of late Sheikh Md. Sultan, R/O village- Kamra tola, P.S. Balrampur, District- Katihar
 4. Hemchandra Das Son of Mukhendra Prasad Das, R/O Village Mahishal, P.S. Balrampur, District- Katihar
 5. Ajay Kumar Jha, Son of Sri Suryanand Jha, R/O Rautera (Telta), P.O. Telta, P.S. Balrampur, District- Katihar

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Health Department, Government of Bihar, Patna
3. Director in Chief, Health Services, Government of Bihar, Patna
4. Chief Malaria Officer, Government of Bihar, Patna
5. District Malaria Officer, Katihar
6. Civil Surgeon-cum-Chief Medical Officer, Katihar
7. District Magistrate, Katihar
8. Deputy Development Commissioner, Katihar
9. Deputy Collector, Establishment, Katihar
10. Manoj Kumar, Son of Nachatra Goshwami, R/O village- Mirchaibari, P.S.- Katihar, District- Katihar
11. Manoj Kumar Sinha, Son Chandradev Sinha, r/o Sitlaasthan, P.S. Katihar, District- Katihar
12. Suresh Kumar Thakur, Son of Bindeshwari, R/O village Gopniya, P.S. Katihar, District- Katihar
13. Mayanand Jha, Son of Kalikant Jha, R/O Bharari Rani Patra, P.S. Katihar, District- Katihar
14. Goutam Kumar Sinha, Son of Chandradev Prasad, Resident of village- Mirchaibari, P.S. Katihar, District- Katihar
15. Rizwan, Son Md. Idrish, Resident of Sandhuwa, P.S.+District- Bhagalpur
16. Sri Nath Thakur, Son of Umanath Thakur, R/O Chakla Gola Nagar, P.S. Katihar, District- Katihar
17. Shyam Deo Rai, Son of Nand Lal Rai, R/O Janki Nagar, P.S. Purnea, District- Purnea
18. Aatur Rahman, Son of Abdul Rasheed, R/O Azam Nagar, P.S. AzamNagar, District- Katihar
19. Ashok Kumar Biswas, Son of Kanhai lal Biswan, R/O village Binod Pur, P.S. Katihar, District- Katihar
20. Sahid Hussain, Son of Sk. Md. Ali, R/O village Nayatola, Gopalpur, P.S. Kadwa, District- Katihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Md Helal Ahmad, Advocate
For the S t a t e : Ms Archana Meenakshee, GP VI with



Mr Karandeep Kumar, AC to GP VI
For Private Respondents:Mr Kanti Jha, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 07-08-2018

Heard learned counsel for the petitioners, respondent-State as also the private respondents.

2 Petitioners have moved this Court seeking a direction for appointment against Group D Post by submitting that juniors to them have been selected pursuant to the selection process conducted under the Advertisement of 2013. The petitioners have staked their claim by stating that juniors to them, details of which have been mentioned in the writ petition at paragraph 10, have been empanelled and appointed in the process undertaken ignoring the petitioners' claim that they are senior to them. They have also challenged the process, by relying upon the Bihar Group D (Appointment and Service Conditions) Rules, 2010 as amended uptill the amended Rule of 2012, to submit that though some of the candidates were not possessing requisite qualification of Matriculation, they have been appointed.

3 The specific assertion regarding the petitioners' case being superior by virtue of seniority has been denied by the respondent-State in the counter affidavit. The specific case is that



none, junior to the petitioners have been empanelled or appointed. This factual position has not been controverted by the petitioners by filing any rejoinder. Further, attention of the Court has been drawn towards two orders passed in favour of the private respondents whose selection the petitioners have challenged.

4 Under order dated 03.10.2001 passed by this Court in *CWJC No 8827 of 2000* wherein all the private respondents were parties, this Court has been pleased to grant the petitioners' relaxation in age in a process for selection keeping in view the fact that they have been working since long on daily wages.

5 Having failed to obtain the appointment pursuant to such relaxation, the private respondents, thereafter, filed *CWJC No 4051 of 2009*. The same was disposed of by order dated 16.12.2013. This Court in the second writ petition, filed by the private respondents, has been pleased to observe as follows:

*“In my view, as the name of the petitioners figured in the final panel, the eligibility as prescribed at the time of empanelment in the year 1999, 2000 would be valid so far as petitioners are concerned. The advertisement issued at the relevant time did not prescribe Matriculation as necessary qualification for regularization to Class IV post. The change in educational qualification would not affect the petitioners' case as they would be guided by the earlier advertisement itself. The respondents would examine the case of the petitioners afresh in light of the earlier order dated 03.10.2001 passed in *CWJC No 8827 of 2000* and *CWJC No 4408 of**



2001 within four months from the date of receipt/production of a copy of this order.”

6 In view of such conclusion of this Court on the petitioners’ second writ petition, the requirement of having a Matriculation, was also relaxed by this Court in favour of the private respondents. Both the orders are confined to the petitioners in the said writ petitions. Petitioners herein are, admittedly, not parties to those proceedings.

7 For the reasons stated hereinabove, the selection/regularization/appointment of the private respondents cannot be faulted with. In view of the specific uncontroverted stand that none, junior to the petitioners have been empanelled or appointed, petitioners can claim no right to be considered.

8 The writ petition is devoid of any merit and the same is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.08.2018
Transmission Date	NA

