

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4912 of 2016

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1. Rajeev Kumar Verma son of Late Sudhir Kumar Verma Village - Lakhram, Ward No. 2, P.S. - Shiwan Mufassil, District - Siwan, Bihar.
 2. Aarti Kumari D/o Anand Mishra resident of C/o Rajkumari Devi (Teacher), Macchharata, Galli, Maharaj Ki Deodhi, Patna City, District - Patna.
 3. Amitesh Kumar Son of Ramashankar Sharma resident of V.A.V.A.S. Darbar Market, Main Road, Brahmpura, P.O. - M.I.T., District - Muzaffarpur, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Coordination Committee through its convener-cum-District and Session Judge, Patna.
3. The Convener, Coordination Committee, Patna-cum-District and Sessions Judge, Patna.
4. The Hon'ble High Court of Judicature at Patna through the Registrar.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Kumar Kaushik

For the Respondent(HC) : Mr. Bindhyachal Singh
Ms. Smriti Singh

For the State : Mr. Navnit Kumar, A.C. to SC-17

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

C.A.V. JUDGMENT

Date: 16-08-2018

The present writ petition has been filed for directing the respondent no. 2 to consider the petitioners for appointment on the post of Stenographer (Hindi) in the Subordinate Courts of Bihar in pursuance to the employment notice dated 07.02.2013. The petitioners have further prayed for quashing the employment notice no. 02/2016.

The brief facts of the case, according to the writ petitioners, are that the employment notice was issued in the Hindi Newspaper *Dainik Jaagran* on 07.02.2013 from the office of the Convener Coordination Committee, Patna, constituted under Rule 7(3) of the Bihar Civil Court Staff (Class III and Class IV) Rules, 2009, inviting



applications in the prescribed Performa for appointments / preparation of a panel from suitable candidates for the post of Clerk/Stenographer in the Subordinate Courts of Bihar. The tentative vacancies were shown to be 578 for the post of Stenographer and out of the same 25 per cent vacancies were for the Hindi Stenographer i.e. 144 posts. The petitioners had also applied in pursuance to the aforesaid advertisement whereafter a written test was conducted by the respondent Committee for Hindi Stenographer on 09.03.2014 and a list of selected candidate for the post of Hindi Stenographer in the Civil Courts of Bihar was published on 27.05.2015 which also contained the names of the petitioners herein. The petitioners, who were general category candidates were placed at serial nos. 135, 124 and 139 respectively. However, on 07.08.2015, another list was published and the names of the petitioners did not find place in the said list. The respondent Coordination Committee had again issued another employment notice no. 02/2016 dated 07.02.2016, inviting applications in the prescribed Performa for preparation of panel of suitable candidates for appointment on the post of Stenographer (Hindi/English)/Bilingual in the Subordinate Courts of Bihar.

The learned counsel for the petitioners has raised a short point for consideration to the effect that though the Bihar Civil Court Staff (Class III & Class IV) Rules, 2009 provides for preparation of a panel of successful candidates which would remain valid for a period



of two years and the existing vacancies as also the anticipated vacancies occurring within the aforesaid period may be filled up from amongst the candidates in the said panel in order of merit, the respondents have illegally issued another employment notice dated 07.02.2016 within a period of two years from the publication of the result dated 27.05.2015 / 07.08.2015 pertaining to the earlier employment notice.

At this juncture, it must be stated that the learned counsel for the petitioners has referred to various judgments, however, none of the said judgments referred to by the learned counsel for the petitioners are relevant for the purposes of the present case inasmuch as firstly the same are distinguishable in the facts and circumstances of the present case and secondly the present case is an idiosyncratic case which can be decided on the strength of the materials on record as also the Rules under consideration and do not require any treatise on the subject matter in issue, hence the judgment referred to by the learned counsel for the petitioners are not being mentioned herein.

Per contra, the learned counsel for the respondents has submitted that according to the advertisement 578 posts of Stenographer were advertised out of which 434 posts were of the English Stenographer and 144 posts were for the post of Hindi Stenographer. Upon holding of the written examination, no eligible candidates were found for the said post, however, considering the



urgency of the matter and acute shortage of Stenographers in the Civil Courts of Bihar, the Hon'ble Standing Committee of the Patna High Court in its meeting held on 11.03.2015 resolved as follows:-

“In view of the acute shortage of Stenographers in the Subordinate courts all over the State, it is resolved to provisionally appoint such of the candidates whose mistakes are found to be 20 % or below.

A condition shall be incorporated to the effect that the orders of regular appointment shall be given on satisfactory performance in a test that may be conducted after six months from the date of appointment.

The revised list be placed before the Committee before the orders are issued.”

In view of the aforesaid resolution of the Standing Committee, out of 434 posts of English Stenographer, only 42 candidates were selected as English Stenographers and out of 144 posts of Hindi Stenographer after filling up the vacancies, 12 posts remained vacant which belonged to the reserved category.

The learned counsel for the respondents has further submitted that no waiting list / panel has been prepared for filling up the future vacancies since no eligible candidates were found upon the conduct of the written examination. The learned counsel further submits that keeping in view the dearth of Stenographers in the Subordinate Courts, Employment Notice no. 02/2016 was published for making



appointments on the posts of Stenographers.

I have heard the learned counsel for the parties and gone through the materials on record and I find that since none of the candidates, who had applied pursuant to the employment notice dated 07.02.2013, were found eligible for the said posts of Stenographers, no panel could have been prepared inasmuch as according to sub-rule (12) of Rule 7, panel of only successful candidates is required to be prepared but in the present case, upon examination, no eligible/successful candidates were found. At this juncture, it would be relevant to reproduce sub-Rule **12, 13, 14 of Rule 7 of the Bihar Civil Court Staff (Class-III & Class IV) Rules, 2009** hereinbelow:-

“7 (12) A panel of successful candidates shall be prepared on the basis of total marks obtained in written examination as also in the interview. After the selection tests (both written and oral) are over, a common panel shall be prepared by the Coordination Committee in order of merit for all the Judgeship in the State of Bihar.

(13) The aforesaid panel shall remain valid for a period of two years.

(14) The existing vacancies as also the anticipated vacancies occurring within the aforementioned period may be filled up from amongst the candidates in the said panel in order of merit.”

It is thus apparent from what has been stated in the preceding paragraphs herein below, that since there were no successful



candidates, no panel could have been prepared and since no panel was prepared, there was no question of filling up of the existing vacancies/anticipated vacancies occurring within the said period of two years in pursuance to the earlier employment notice dated 07.02.2013, hence the respondents have rightly published the fresh employment notice dated 07.02.2016 wherein all the existing/anticipated vacancies totalling to 1075 posts of English and Hindi Stenographers has been advertised. Though not relevant, it might be pertinent to state that the respondents have also mentioned in their counter affidavit that the petitioners herein had secured 87.33, 88.00 and 87.33 percent marks respectively but the last general category candidate appointed according to the roster and merit is one Gulab Chandra Vishwakarma who has obtained 88.33 per cent marks, hence the petitioners are even otherwise not eligible to be appointed.

Having regard to the facts and circumstances of the present case and for the reasons mentioned hereinabove, I do not find any merit in the present writ petition, hence the same is dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	07.08.2018
Uploading Date	17.08.2018
Transmission Date	

