

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7145 of 2017

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1. Ucheshwar Pandit, son of Late Badri Pandit, resident of LIC Colony, Laloo Chak, Argari, P.O.- Ishakchak, District- Bhagalpur.
 2. Lakhanlal Pandit, son of Late Baldeo Pandit, P.O.- Chandadih, District- Banka.
 3. Sikandar Sharma, son of Late Narsingh Sharma, resident of Village- Tintanga Karari, P.O.- Tintanga Karari, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Bhagalpur Division, Bhagalpur.
3. The District Magistrate, Bhagalpur.
4. The Block Development Officer, Khalgaon, District- Bhagalpur.
5. Block Development Officer Navagachia, District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pratap Sharma
For the Respondent/s : Mr. Kameshwar Prasad Gupta-Gp10

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 10-04-2018

The case of the petitioners for grant of 2nd A.C.P. has been rejected by the impugned order dated 06.11.2013 on the ground that the petitioners herein have not passed the computer examination.

The learned counsel for the petitioners has referred to the notification dated 15.05.1992 issued by the Personnel and Administrative Reforms Department whereby and whereunder those employees, who have



attained the age of 50 years, are not required to pass any departmental examination. The learned counsel for the petitioners has further referred to the notification of the General Administration Department bearing No. 1609 dated 24.05.2011 whereby and whereunder in Clause 4 (c), it has been stipulated as follows:-

“Notwithstanding the aforesaid provisions, the provisions regarding age relaxation with respect to passing of examination, if made in any service / cadre Rules, shall remain effective. The instruction issued from time to time with respect to relaxation in passing the departmental examination, for government servants who have completed 50 years of age, on fulfilling certain conditions shall remain effective in such cases also.”

It is therefore the submission of the learned counsel for the petitioners that the petitioners herein could not have been precluded from grant of the benefits of the 2nd A.C.P. on the ground of not passing the computer examination in view of the aforesaid circulars / notification / regulations of the State Government.



Per contra, the learned counsel for the State, while referring to the counter affidavit filed by the Respondents, has stated that the claim of the petitioners has already been rejected and there is no ground for granting the benefits of 2nd A.C.P.

I have heard the learned counsel for the parties and find that the Respondents have failed to show any provision in law contrary to the aforesaid two circulars issued by the Government whereby and whereunder the employees, who have attained the age of 50 years, are not required to pass the departmental examination / computer examination.

Having regard to the facts and circumstances and for the reasons stated hereinabove, I deem it fit and proper to quash the order dated 06.11.2013 qua the petitioners herein and further direct the Respondents to consider the case of the petitioners for grant of 2nd A.C.P. ignoring the fact that the petitioners herein have not passed the computer examination.



The writ petition is allowed.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.04.2018
Transmission Date	11.04.2018

