

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1383 of 2013

Sujit Kumar Son Of Sri Mahendra Singh Resident Of Pathak Toli, P.S. And
Town - Jehanabad, District - Jehanabad

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary, Department Of Labour Resources, Govt. Of Bihar, Patna
3. Bihar State Legal Services Authority, Patna, Through Its Member Secretary
4. Member Secretary, Bihar State Legal Services Authority, Patna
5. District Legal Services Authority Jehanabad Through Its Secretary
6. Secretary, District Legal Services Authority, Jehanabad

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Roy, Advocate
For the Respondent/s : Mr. SUNIL KR. MANDAL, SC 24

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 09-01-2018

The writ petition has been filed under Article 226 of the Constitution of India for quashing letter No. 1871 dated 03.12.2012 issued by the Bihar State Legal Services Authority, Patna, asking the District Legal Services Authority, Jehanabad, to treat the post of Bench Clerk/Office Clerk in the Permanent Lok Adalat as similar, as such, reservation policy of the State Government will be applicable.

Briefly stated fact of the case is that on 03.05.2012 the District Legal Services Authority, Jehanabad, issued advertisement inviting application for different posts including two posts of Bench Clerk and Office Clerk in the pay scale of



Rs. 5,200- Rs. 20,200- Grade Pay Rs. 900 for which requisite qualification was Matriculate with preference of knowledge of typing and computer. Separate application was required for separate post. Petitioner applied for the post of Bench Clerk as well as Office Clerk as he was eligible for both the posts.

The meeting of the Appointment Committee of the District Legal Services Authority, Jehanabad, was held on 02.07.2012 in which vacancies for different posts were placed before the Committee showing one post each for Bench Clerk and Office Clerk and other vacancies. As there were only one post of Bench Clerk, one post of Office Clerk and one post of Sweeper, as such, it was decided that reservation policy will not be applicable, there being only single post.

The written examination was held on 16.09.2012 for 125 marks in which petitioner and other applicants appeared in which six candidates including petitioner had qualified and interview was held on 03.11.2012.

It has further been submitted on behalf of the petitioner that the Appointment Committee at the District Level prepared a detailed minutes of the meeting held on 03.11.2012 in which merit-cum-seniority list was also prepared and name of Sri Manoj Kumar Das appeared at serial no. 1 and name of



petitioner was at serial no. 2, as such, the Committee resolved and recommended the names of Sri Manoj Kumar Das and petitioner for appointment on the post of Bench Clerk and Office Clerk in the permanent Lok Adalat, Jehanabad and sent proposal to the State Legal Services Authority for its approval by letter dated 05.11.2012.

The State Legal Services Authority, Patna, informed the District Legal Services Authority, Jehanabad through its letter dated 03.12.2012 that reservation would be applicable as the post of Bench Clerk and Office Clerk are similar and being two posts reservation policy will be applicable and one will go to the general candidate, whereas other post as per roster will go to the extremely backward classes. According to State Legal Services Authority the posts of Bench Clerk/Office clerk were not two distinct posts in Category-3 of Class-3 employees of Civil Court Staff (Class-3 and Class-4) Rules, 2009 and directed the District Legal Services Authority to reconsider its decision and thereafter Atik Ahmad Khan was selected for appointment against the reserved post.

It has been submitted on behalf of the petitioner that educational qualification for the Bench Clerk and Office Clerk in permanent Lok Adalat is Matriculation with knowledge of



typing and computer whereas in the civil court the eligibility for appointment of Bench Clerk and Office Clerk under the Rules 2009 is Graduation and knowledge of computer will be given extra marks. Besides, Rules 2009 also provide that candidates appearing for interview should have working knowledge of Hindi and English. As such, posts of Bench Clerk and Office Clerk in permanent Lok Adalat cannot be treated similar as Bench Clerk and Office Clerk in Civil Courts are not similar and as per Rules same is to be followed in Permanent Lok Adalat posts also. In the recruitment Rules in civil court, Office Clerk having minimum of five years of service can be promoted to the post of Bench Clerk and, as such, there is no parity or similarity in the posts in civil court of Bench Clerk and Office Clerk and same is applicable to the post of Bench Clerk and Office Clerk in Permanent Lok Adalat also.

This Court by order dated 04.10.2016 impleaded Atik Ahmad Ansari as Respondent No. 7 and issued notices to the newly added Respondent no. 7. However, inspite of valid service of notice upon Respondent no. 7, he has not chosen to appear and contest the case.

A counter affidavit has been filed on behalf of Respondents No. 3 and 4 in which it has been stated that



reservation policy of the State Government and Rules applicable in the case of appointment of civil court employees, Rules 2009 has to be followed in matter of appointment in Permanent Lok Adalat also.

A counter affidavit has been filed on behalf of Respondent no. 6 in which it has been stated that decision was taken as per provision of Bihar Civil Court Staff (Class -III and Class-IV Rules 2009) in which it was found that Category-3 of Class-III employees posts of Bench Clerk and Officer Clerk are two different posts in which as per Rule 16 no clerk should be appointed as Bench Clerk unless he has completed five years of services. As such, Bench Clerk and Office Clerk in Permanent Lok Adalat, Jehanabad, cannot be considered similar posts as Bench Clerk and Office Clerk in civil courts are two different and distinct post and after due consideration the Committee resolved that for appointment on these posts, reservation policy of State Government are not applicable and the Appointment Committee issued appointment letters to Sri Majoj Kumar Das and Sri Sujit Kumar (petitioner). In the advertisement two posts of appointment has been shown as one post each of Bench Clerk and Office Clerk.

A supplementary counter affidavit has also been filed



on behalf of Respondent No. 6 as well as Respondent No. 2 in which it has been stated that Bench Clerk/Office Clerk posts were advertised showing two number of posts having similar pay scale.

After hearing the parties this Court finds that as per norms being followed in appointment of Bench Clerk and Office Clerk in civil courts, where appointments on said posts are done as per provision of Bihar Civil Court Staff (Class III and Class IV Rules) 2009 in which Bench Clerk and Office Clerk are two distinct and separate posts and cannot be equated as similar post likewise Bench Clerk and Office Clerk in Permanent Lok Adalat also are distinct and separate and cannot be equated as similar posts. Duty and responsibility attached to the posts are also distinct and separate.

Having held so the decision dated 03.12.2012 of State Legal Services Authority that Bench Clerk and Office Clerk in Permanent Lok Adalat are similar and there being two posts reservation policy of State will be applicable cannot be sustained and set aside.

The District Legal Services Authority, Jehanabad, is directed to send the fresh proposal for making appointment on the post of Bench clerk and Office Clerk as per their decision



dated 03.11.2012 for approval by the State Legal Services Authority and same to be reconsidered by the State Legal Services Authority in accordance with law.

With such liberty and direction the writ petition is disposed of.

(S. Kumar, J)

sudip/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.02.2018
Transmission Date	03.02.2018

