

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11285 of 2011

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1. Ashok Kumar Mishra S/O Late Shyam Sunder Mishra R/O Vill.- Brahma Bigha, P.O.- Amas, P.S.- Gurua, Distt.- Gaya
 2. Mojibur Rahman S/O Late Md. Mustaqueem R/O Vill.- Hemat Bigha, P.S.- Sherghati & Distt.- Gaya

.... Petitioner/s

Versus

1. The Civil Court, Gaya Through Its Registrar Civil Court, Gaya
2. The District & Sessions Judge Civil Court, Gaya
3. The Registrar, Civil Court, Gaya
4. Santosh Kumar S/O Not Known Clerk Civil Court, Distt- Gaya
5. Ganesh Prasad S/O Notknown Clerk Civil Court, Distt- Gaya
6. Rajesh Kumar S/O Not Known Clerk Civil Court, Distt- Gaya
7. Gaurav Kumar S/O Not Known Clerk Civil Court, Distt- Gaya
8. Dhiraj Kumar Dwivedi S/O Not Known Clerk Civil Court, Distt- Gaya
9. Paras Mani S/O Not Known Clerk Civil Court, Distt- Gaya
10. Mansih Kumar Srivastava S/O Not Known Clerk Civil Court, Distt- Gaya
11. Krishna Niwas S/O Not Known Clerk Civil Court, Distt- Gaya
12. Kushdeo Sharma S/O Not Known Clerk Civil Court, Gaya, Distt.- Gaya
13. Brajesh Sharma Pathak S/O Not Known Clerk Civil Court, Gaya, Distt.- Gaya
14. Gaurav Kumar Singh S/O Not Known Clerk Civil Court, Gaya, Distt.- Gaya
15. Leyakat Ali Ansari S/O Not Known Clerk Civil Court, Gaya, Distt.- Gaya
16. Manoj Kumar Bhagat S/O Not Known Clerk Civil Court, Gaya, Distt.- Gaya
17. Rajesh Knumar S/O Not Known Clerk Civil Court, Gaya, Distt.- Gaya
18. The State Of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mohammed Abu Haidar, Adv.
Md. Abu Shajar, Adv.

For the Respondent/s : Mr. Rajesh Kumar Sinha, AC to GP23

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 02-07-2018

Heard learned counsel for the petitioners and learned
counsel representing the State-respondents.

This writ application has been preferred for issuance of
writ of certiorari to quash and cancel the order of promotion as



contained in Order No. 8888/10 dated 03-11-2010 (Annexure-1 to the writ application).

By the impugned order, promotions have been granted to the private respondents from Class-IV posts to Class-III posts in the Civil Court at Gaya. The petitioners claim that they are entitled to be considered for promotion from Class IV to Class-III in reservation quota by conducting a limited selection test as directed by this Court in Civil Review No. 25 Of 1998 in another case.

The counter affidavit filed on behalf of the Registrar Civil Court Gaya (Respondent no. 3) reveals that pursuant to the notice published on the Notice Board of Civil Court, Gaya altogether 52 applications were received from the candidates seeking to appear in the written test examination to be held 5th September 2010. The said examination was announced as per the decision of the appointment-cum-selection Committee. Altogether 45 candidates appeared in the written test examination, these petitioners had also applied for promotion to the post of III Grade and they appeared in the written test examination held on 5th September 2010 but when they could not qualify in the written test examination, initially though no representation was made claiming their appointment on the basis of limited selection test on reservation quota, at this stage, the present writ application has been preferred by the unsuccessful petitioners.



Learned counsel representing the respondent no.3 submits that even though the petitioners are seeking to rely upon an order dated 10-12-1996 passed by learned writ court in C.W.J.C No. 4703 of 1995 and the subsequent order dated 01-12-1998 passed in Civil Review No. 25 of 1998, however, at this stage, the reliance placed by the petitioners on the earlier orders of this Court in the case of some other petitioners is highly misconceived. It is submitted that not only these petitioners participated in the written test examination held on 5th September 2010 and thereby waived their right, if any, to claim consideration under the limited examination, as prior to that at no stage they had sought their names to be considered for promotion by holding a limited examination. Learned counsel submits that delay on the part of the petitioners is such that it would disentitle them from the relief prayed for in the writ application.

Having heard learned counsel for the parties, this Court is of the considered opinion that at no point of time, these petitioners ever claimed their candidature for promotion from Class IV to Class III posts on the basis of Limited Selection Test from reservation quota. The appointments were considered by the Selection Committee by following the rules of the Bihar Civil Court Staff (Class-III and IV Rules) 2009. The petitioners have participated in the written test held on 5th September 2010, waited for the result to be announced and only



when they found themselves not qualified in the written test, the present writ application has been filed. This Court also agrees with the submission of learned counsel representing the respondents that the order passed in the writ application and the Civil Review no way confers any right upon the petitioners to be considered on the basis of limited Selection Test and any claim raised by the petitioners based on the order passed by this court in Civil Review No. 25 of 1998 at this belated stage would not entitle them to get an opportunity to agitate this issue.

This writ application has no merit. It is accordingly dismissed.

(Rajeev Ranjan Prasad, J)

A.K.V./R.S.Sen-

AFR/NAFR	
CAV DATE	NA
Uploading Date	
Transmission Date	

