

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22 of 2016

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1. Laxmi Kumari wife of Shri Somnath Mishra Resident of village - Tatuvar, P.S. Manigachhi, District - Darbhanga.
 2. Poonam Jha wife of Late Prashant Kr. Jha Resident of 101, Laxmi Palace, Exhibition Road, Patna.
 3. Medhakar Jha son of Late Jagdeo Jha Resident of Village - Bharatpur, P.O. Chhatwan, P.S. - Keoti, District - Darbhanga.
 4. Raman Kumar Jha son of Late Jitendra Narayan Jha resident of D - 104, Prasad Apartment, Sanjay Nagar, Road No. 6, Kankarbagh, P.S. - Patrakar Nagar, District - Patna - 26.

.... Petitioner/s

Versus

1. Bihar Public Service Commission through its Secretary, 15, Bailey Road, Patna.
2. The Chairman, Bihar Public Service Commission, 15, Bailey Road, Patna.
3. The Secretary, Bihar Public Service Commission, 15, Bailey Road, Patna.
4. The Joint Secretary-cum-examination Controller, Bihar Public Service Commission, 15, Bailey Road, Patna.
5. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
6. The Principal Secretary, Human Resource Development Department, Government of Bihar, Patna.
7. Kumari Sandhya roll No 48010420 son of not known through the Secretary Bihar Public Service Commission, 15, Bailey Road, Patna.
8. Amitabh Chakravarti roll no 48010408 son of not known through the Secretary Bihar Public Service Commission, 15, Bailey Road, Patna.
9. Abhilasha Kumari roll no 48010082 son of not known through the Secretary Bihar Public Service Commission, 15, Bailey Road, Patna.
10. Raj Kumar Roy roll no 48010376 son of not known through the Secretary Bihar Public Service Commission, 15, Bailey Road, Patna.
11. Lal Babu Sahani roll no 48010036 son of not known through the Secretary Bihar Public Service Commission, 15, Bailey Road, Patna.
12. Sweety Kumari roll no 48010118 son of not known through the Secretary Bihar Public Service Commission, 15, Bailey Road, Patna.
13. Manju Kumari roll no 48010055 son of not known through the Secretary Bihar Public Service Commission, 15, Bailey Road, Patna.
14. Krishna Mohan Thakur roll no 48010205 son of not known through the Secretary Bihar Public Service Commission, 15, Bailey Road, Patna.
15. Nantun Paswan roll no 48010009 son of not known through the Secretary Bihar Public Service Commission, 15, Bailey Road, Patna.
16. Satyendra Kumar Jha roll no 48010031 son of not known through the Secretary Bihar Public Service Commission, 15, Bailey Road, Patna.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Binodanand Mishra
For the Respondent/s : Mr. Umesh Kumar Roy, A.C. to GP-11
For the B.P.S.C. : Mr. Sanjay Pandey

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date: 11-09-2018

The present case has been filed for quashing of the results/merit list dated 04.12.2015 published by the respondent Bihar Public Service Commission pursuant to advertisement no. 48 of 2014 to the extent the same pertains to appointment of Assistant Professors in the subject Maithili in the constituent colleges of different universities of Bihar.

The brief facts of the case are that on the basis of the requisition sent to the Bihar Public Service Commission, the Commission had issued Advertisement No. 44 of 2014 to Advertisement No. 84 of 2014 for the purposes of making appointment on various posts of Assistant Professors in various subjects in different universities. As far as Advertisement No. 48 of 2014 is concerned, the same pertain to appointment of Assistant Professor in the subject Maithili. The petitioners herein, belonging to the General category applied for the post of Assistant Professor, Maithili whereafter interview was held in between 29.09.2015 to 08.10.2015 in the premises of the Commission and thereafter a merit list was prepared. The petitioner no. 1, 2, 3, and 4 had secured 61.30%, 63.45%, 60.70% and 71.55 marks respectively which is less than the cut off marks of 72.20% marks as far as the general category concerned. The final result was published by the Commission on 05.12.2015 and since the petitioners herein have not found place in the list of selected candidates, the present writ petition has been filed. The only issue raised by the learned counsel for the petitioners is that the educational qualification required under the aforesaid advertisement is



as follows:-

- “1. A candidate should have throughout good academic record with minimum 55% marks at the Masters degree or equivalent (or equivalent grade).
Relaxation of 5% marks for SC/ST Candidate of the State, while physically challenged persons from any part of the country will be given relaxation of 5% marks at Master’s degree. But both benefits shall not be admissible to any such candidate.*
- 2. A candidate must have passed NET/SET or equivalent test accredited by U.G.C.*
- 3. The Candidate who have obtained Ph.D. Degree on the basis of Minimum Standard and Procedure Regulation, 2009 framed by the University Grants Commission for M.Phil/Ph.D. Degree, shall be exempted from passing the National Eligibility Test.*
- 4. NET/SET shall also not be required for such Masters Programmes in disciplines for which NET/SET is not conducted.”*

It is submitted by the learned counsel for the petitioners that not only the candidates should possess masters degree or equivalent in Maithili subject but the candidate should also be possessing graduation degree in Maithili as also should have had Maithili as a subject in the inter level examination, hence ineligible candidates have been declared successful and in case such candidates are excluded, the petitioners would qualify.

Per contra, the learned counsel for the respondents have submitted that firstly the petitioners have secured less marks than the cut off marks required for the purpose of being selected as Assistant Professor, Maithili under the general category and secondly the entire selection process is over long back and the final result has already been published on 05.12.2015, however, the present writ petition has been filed belatedly in the year 2016.

I have heard the learned counsel for the parties and have gone



through the materials on record and I find that the petitioners have failed to attain the cut off marks required for the purposes of selection/appointment on the post of Assistant Professor, Maithili and thus have not been selected.

The argument advanced by the learned counsel for the petitioners is misplaced and misconceived inasmuch as the advertisement nowhere specifies that a candidate should possess either bachelor degree in Maithili or such candidate should have Maithili subject at the inter level examination. Moreover, the learned counsel for the petitioners has also failed to show that either the petitioners were having Maithili subject at the inter level or they have obtained bachelor degree in Maithili subject.

Having regard to the facts and circumstances of the case and for the reasons stated herein above as also the fact that advertisement nowhere postulates that candidate should either possess bachelor degree in Maithili or should have had Maithili subject at the inter level examination, I do not find any merit in the present petition. Moreover, the petitioners have secured lesser marks than the candidates who have been selected, hence even on merits, they do not deserve any consideration.

Accordingly, the present writ petition is dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

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CAV DATE	
Uploading Date	09.10.2018
Transmission Date	

