

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.398 of 2019

In
Civil Writ Jurisdiction Case No.18602 of 2016

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Arun Kumar, Son of Late Ram Naresh Singh, Resident of Bhushan Lane, East Lohanipur, Police Station - Kadamkuan, District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Transport Department, Government of Bihar, New Secretariat, Patna.
2. The State Transport Commissioner, Vishweshvaraiya Bhawan, New Secretariat, Patna.
3. Bihar Staff Selection Commission Patna, P.O.- Veterinary College, Patna-14 through its Chairman.
4. The Secretary, Bihar Staff Selection Commission, Patna, P.O.- Veterinary College, Patna-14.
5. The Chairman, Bihar Staff Selection Commission, Patna, P.O.- Veterinary College, Patna-14.
6. Members of Re-scrutiny Committee, Bihar Staff Selection Commission, Patna, under Chairmanship of the Secretary.

... .. Respondent/s

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Appearance :

For the Appellant	:	Mr. Chitranjan Sinha, Sr. Advocate Mr. Gajendra Kumar Singh, Advocate
For the State	:	Mr. Sushil Kumar Singh, A.C. to AAG-10
For the B.P.S.C.	:	Mr. Ashok Kumar Dubey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-08-2019

Heard learned Senior Counsel for the appellant Shri Chitranjan Sinha, who submits that the issue with regard to consideration of the appellant for being appointed under the general category has not been appropriately construed under the garb of the communication dated 03rd March, 2016 which in effect ought to have included the name of the appellant as well for consideration.



2. The submission is that the appellant was also in the merit list and he belonged to the general category and if the appointments are offered by the State Government in accordance with the merit combined with the roster applicable, there is every likelihood of the appellant being included in the merit list for appointment.

3. The learned single Judge, according to the learned counsel for the appellant, has declined to pass any further orders, leaving it open to the Government to take appropriate action in the light of the orders passed in the litigation. It is submitted that the learned single Judge ought to have disposed of the writ petition of the appellant by issuing appropriate directions for consideration of his name as well, in the light of his status in the merit list and as to whether he could be accommodated for appointment or not.

4. Learned counsel for the State of Bihar submits that the appointments of three persons, namely, Chandra Prakash, Satyendra Narayan Mishra and Pankaj Kumar, have been made from amongst the general category and that they were eligible for being included in the merit list. Their appointments therefore do not suffer from any infirmity and consequently, the claim of the appellant once the general category quota is full, cannot be considered.



5. We have considered the submissions raised and we find that the status of appointment against all the 59 posts has not been appropriately disclosed before us and which requires to be taken into consideration before the name of the appellant is either accepted or rejected.

6. Consequently, we dispose of this appeal by modifying the impugned judgment of the learned single Judge dated 24.08.2018 to the effect that the claim of the appellant shall be considered by the Principal Secretary, Department of Transport, Government of Bihar in the light of the observations made herein above, keeping in view the status of merit of the appellant as well as the roster applicable in respect of the 59 vacancies that were advertised. This exercise shall be completed within a period of three months.

7. The appeal is, accordingly, disposed of.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

PNM

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	
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