

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13052 of 2017

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1. Jitendra Kumar, S/o Sri Nand Kishore Ram, Resident of Mohalla- Lakridhai Chandwara, Anand Bag Colony, P.S.- Town, District- Muzaffarpur, Pin Code- 842001.
 2. Jitendra Ray, S/o Late Mahadeo Ray, Resident of Village- Kurhani, P.O.+P.S.- Kurhani, District- Muzaffarpur.
 3. Harendra Ram, S/o Shiv Nandan Ram, Resident of Village- Jagarnathpur, P.O.- Padmaul, P.S.- Kurhani, District- Muzaffarpur.
 4. Pramod Kumar, S/o Late Kaldev Bhagat, Resident of Village+P.O.- Baghi, P.S.- Kurhani, District- Muzaffarpur.
 5. Naresh Bhagat, S/o Jaymangal Bhagat, Resident of Village- Gausi, Bhagirath, P.O.+P.S.- Kurhani, District- Muzaffarpur.
 6. Binod Roy, S/o Sri Sonelal Roy, Resident of Village- Kurhani Tola, P.O.+P.S.- Kurhani, District- Muzaffarpur.
 7. Shambhu Ram, S/o Madan Ram, Resident of Village- Koluha, Paigambarpur, New Police Line, P.O.+P.S.- M.I.T., District- Muzaffarpur.
 8. Dinesh Ram, S/o Sri Gopal Ram, Resident of Village- Suradhiyapur, P.O.- Balra Ismail, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
2. The Joint Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Muzaffarpur, District- Muzaffarpur.
5. The Deputy Collector (Establishment), Muzaffarpur, District- Muzaffarpur.
6. The Deputy Collector (Nazarat) Muzaffarpur, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Siya Ram Sahi, Advocate Mrs. Shally Kumari, Advocate
For the Respondent/s	:	Mr. Saroj Kumar Sharma, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 07-01-2019

Heard learned counsel for the petitioners and learned counsel for the State.

In the present application, the petitioners are challenging the decision of the Committee vide Memo No. 135 dated



17.02.2017 whereby and whereunder the names of the petitioners have been de-listed from the panel prepared by Collectorate, Muzaffarpur for the purposes of their appointment/absorption in Class IV post.

Two reasons have been shown. With regard to the petitioner nos. 4 and 6, it has been mentioned that as there was doubt of their educational qualification, that have been kept in abeyance till further verification of their respective educational certificates. With regard to the rest of the petitioners, their names have been delisted from the panel on account of the fact that their educational qualification was/is 8th pass and the minimum qualification after amendment of Bihar Group D (Recruitment and Service Condition) Rules 2009 in the year 2012 is prescribed 10th pass whereas before amendment, for the post of Group D, the minimum qualification was 8th pass, but it has been made to 10th pass through an amendment in the year 2012.

The short facts of this case is that the petitioners were engaged from time to time by the District Administration or other ancillary department functioning within the District of Muzaffarpur under the Collectorate, Muzaffarpur as daily wage employees. It appears that in the year 2011, an advertisement was issued by the Collectorate for empanelment of those working on



daily wage in the Collectorate of Muzaffarpur. In the panel, the names of these petitioners were also added in the following manner: petitioner no.1 was at sl. no. 406, petitioner no.2 was at sl. no. 442, petitioner no.3 was at sl. no. 444, petitioner no.4 was at sl. no. 446, petitioner no.5 was at sl. no. 449, petitioner no.6 was at sl. no. 470, petitioner no.7 was at sl. no. 371 and petitioner no.8 was at sl. no. 501. From the panel, altogether 429 persons were appointed and assurances were given to these petitioners, as and when, their turn will come they will be appointed on Class IV post, but suddenly the process of appointment/absorption was stopped giving reason that the panel has lost its life on account of lapse of one year from the date of publication of that panel. The petitioners and others were approached the Collector, but all went in vain. Whereafter, some of the candidates approached this Court by filing CWJC No. 15772 of 2012 and CWJC No.13479 of 2012 and the same was finally disposed of vide order dated 3.02.2014 with a direction to examine the grievance of the petitioners, if so required, make necessary correction in the list, but the grievance of the petitioners was not looked into, however, another writ application vide CWJC No.145/2015 was filed, which was disposed of vide order dated 12.03.2015 and the Court has taken into consideration about the 132 left out persons and the Court has



finally given direction to the Collector to fill up the available vacancies. The relevant portion of the said order is as follows:

“Keeping the vacancy position the persons whose names figured in the list of 2011 came to be appointed and these persons fall in the category of 132 left out due to absence of post at the relevant time. However, the Collector has also recorded in its order that their cases will be surely considered when next panel is prepared for which exercise will begin from 1st of April of the year.

If this be so, earlier appointments are not required to be interfered with. The petitioners surely can await exercise which will be carried out now to fill up available vacancies.”

When the order was not implemented, some of the candidates approached this Court by filing M.J.C. No. 2999 of 2015, and the Court has recorded in the order dated 17.02.2016 that the opposite parties have taken steps for gathering the vacancy position from different offices falling under the jurisdiction of the Collectorate, Muzaffarpur and this exercise has been done in furtherance of the order passed by this Court and, accordingly, contempt petition was disposed of. Whereafter the Committee of eight members have considered the case of the left out candidates for the purposes of their absorption/appointment. Total number candidates were 132 and with respect to the candidates mentioned in the order, their names were de-listed from the panel list prepared by the Collectorate, Muzaffarpur. So far the petitioner nos. 4 and 6, the reason has been assigned that their educational



certificates are doubtful and kept their educational certificates for verification. So far rest of the petitioners as has been mentioned in the last portion of the decision that the Rule has been amended in the year 2012 and, accordingly, the minimum qualification has been enhanced to matriculation and, admittedly, rest of the petitioners are holding the certificate of 8th pass. So their names cannot be remained empanelled on account of deficiency in their educational certificate.

Learned counsel for the petitioners submits that the qualification for the post of class-D has been amended and enhanced through 2012 amendment Rule, will not be applicable on account of the fact that the Government later on vide notification dated 26.12.2013 has taken a decision that any panel prepared in between 31.03.2011 to 11.12.2012 minimum qualification for class-D post would remain 8th pass. So in that context, empanelment of a candidate during that period will remain 8th class pass, the amended provision vide notification dated 12.12.2012 will not be applicable in the matter of class of these candidates.

Learned counsel for the State has not disputed the contention of the petitioners, but it has been submitted that already 7 years have crossed so it is not desirable to bring back their



names again in the panel, which has already lost his force whereas the life of panel was one year, but the counsel for the petitioners has drawn the attention of this Court towards last portion of the decision whereby and whereunder the Committee has revalidated the panel for the period from 2012 to 2017 and, as such, he submits that the contention raised by the State is not sustainable in the eye of law.

In view of the fact that up to 2017 the panel remained valid, names of the petitioners except the petitioner nos. 4 and 6 were deleted only because they were possessing the qualification for having 8th class pass and their certificates have not been doubted as per the Government decision itself, it is very much clear that the qualification of 8th Class is proper qualification for the purposes of empanelment during the period of 2011 and 2012 and this notification dtd 26.12.2013 squarely applies to the case of the petitioners as explained above. So in view of the position, the decision of the Committed dated 17.02.2017 is quashed with respect to these petitioners except petitioner nos. 4 and 6 and their names is treated to remain all alone in the panel.

Learned counsel for the petitioners has pointed out that the panel has already exhausted and all the persons, whose names



were in the panel, have been appointed except those names whose serial number is mentioned in Annexure – 6.

As this Court is allowing the case of the petitioners except petitioner nos. 4 and 6, the Collector, Muzaffarpur is directed to see that if any person below their position having been absorbed/appointed, in such circumstances, the petitioners should also be appointed accordingly.

All exercise should be completed within a period of four months from the date of receipt/production of a copy of this order.

It is made clear that the absorption/appointment of petitioner nos. 4 and 6 will be subject to result of verification of their educational qualification and it is expected that the Collector, Muzaffarpur should get the certificates verified within a period of eight weeks from the date of receipt/production of a copy of this order.

Accordingly, this writ application stands allowed to the aforesaid observations and directions.

(Shivaji Pandey, J)

V.K.Pandey/
S. Katyayan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.01.2019
Transmission Date	NA

