

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1495 of 2015

In

Civil Writ Jurisdiction Case No.3650 of 2015

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1. Mritunjay Kumar, son of Shree Madan Lal Singh, resident of village-Rasalpur, P.O. Jagai, P.S. Ekangar Sarai, District Nalanda, Bihar.
 2. Arbind Kumar Jha, son of Sri Narendra Jha, resident of Dagmara, P.O. Dagmara, P.S. Kanuali Bazar, District Supaul.
 3. Ashwini Kumar Pandey, son of Sri Ramesh Chandra Pandey, resident of Mohalla Bari Jhojharpur, near Fire Station, bhagalpur.
 4. Jyotindra Nath, son of Sri Bhuwaneshwar Nath, resident of Mohalla Bakarganj, P.O. Bankipur, P.S. Pirbohore, District-patna
 5. Chandra Prabha, D/o-late Ram Kailash Prasad, resident of Mohall Dujara P.O. GPO, P.S. Gandhi Maidan, District-Patna
 6. Anjay Kumar, son of late Vidya Sagar Gupta, resident of Mohall-Salimpur Ahra, P.S Kadamkuan, District Patna
 7. Brishketu Kumar Ojha, son of Sri Jagdish Chandra Ojha, resident of village Banshwar, P.O. Raghunathpur, District Buxar
 8. Partima Kumari, wife of Sri Satish Kumar, Awadh Kunj, resident of Mohall Rambabua Colony, Gur Ki Mandi, Gulzarbagh, Patna
 9. Ram Kumar Sharma, son of Late Ram Krishna Chaudhary, resident of Mohalla & P.O. Bhagatpur, P.S. Balia, District Begusarai
 10. Md. Sarfaraz Ahmad, C/o-Md. Idris (retired) Bank Officer, resident of Road No.6B, P.O. Rajendra Nagar, P.S. Kadamkuan, District Patna
 11. Vishwa Mohan Ray, son of Sri Kanhaiya Rai, resident of village Ray complex Chandwan More, Arrah, P.O. Chandwan, P.S. Nawadah, District Bhojpur

... .. Appellant/s

Versus

1. The State of Bihar, the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
3. The Deputy Secretary, Human Resources Development Department, Government of Bihar, Patna
4. the Director, Human Resources Development Department, Government of Bihar, Patna
5. The Principal Secretary, General Administration Department, Government of Bihar, Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Prabhat Kumar, Adv.
Mr. Raghwanand, Adv.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT



(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 24-01-2019

Heard Mr. Prabhat Kumar, learned counsel for the appellants- petitioners. There is no representation on behalf of the respondents nor any copy has been served and in the nature of order that we propose to pass we do not deem it necessary to direct the appellants-petitioners to make any such effort.

This appeal arises from a judgment and order dated 15.04.2014 of the learned Single Judge passed in C.W.J.C. No.3650 of 2015 whereby the writ petition was dismissed. According to Mr. Prabhat Kumar this is third round litigation for the petitioners seeking appointment against the post of Librarian following the selection process which was initiated way back in the year, 2008. Copy of the orders have been enclosed at Annexure-2 series to support the tenacity with which the petitioner has pursued the cause.

Fact remains that no application was filed by the appellants in response to the advertisement published to fill up the post of Librarian. The reason why the appellant-petitioners never applied against the post is because, they were over age. According to learned counsel for the appellants, there were several others with similar disqualification who applied and thereafter prayed for age relaxation which was condoned by the



State Government on a decision taken on 16.12.2011 allowing those who had applied pursuant to the advertisement. However the case of the appellant-petitioner is different because they never chose to apply nor chose to invoke any such forum for such purpose and without bothering to apply that some of these appellants simply moved this Court even earlier seeking age relaxation. The writ petition was dismissed and the Division Bench, except for allowing those petitioners to pursue their cause with the department, did not choose to grant them indulgence which is evident from the order present at Annexure-3 to the writ petition.

The pleadings on record would show that it is simply because some similarly situated over aged applicants were granted indulgence by the State Government, that these appellants-petitioners also now seek similar benefits. The plea has been considered and rejected by the respondents on grounds that these appellants-petitioners had never applied against the post and thus they were not entitled to the benefit. The rejection has been upheld by the learned Single Judge.

Having heard learned counsel and taking note of the fact that a Division Bench of this Court in consideration of a similar prayer has refused to grant indulgence as evident from the order passed in C.W.J.C. No.17100 of 2008 at Annexure-2



series and similar order was passed in L.P.A. No.350 of 2009 at Annexure-3, this Court is not persuaded to interfere with the opinion recorded by the learned Single Judge which is impugned herein.

The appeal is dismissed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Bibhash

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