

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4873 of 2018

1. Md. Jamal Mansuri, Son of Md. Islam R/o Village- Gothawa, P.O.-Pataura, P.S.-Mufassil, District-East Champaran.
2. Binod Kumar Son of Late Malripat Ram R/o Village-Dumri Gobind, P.O.-Barka Balua, P.S.-Patahi, District-East Champaran.
3. Parshuram Pandit S/o Sri Kapil deo Pandit Village-Haruahi, P.S.-Raxaul, District-East Champaran.
4. Md. Reyajul Haque S/o Late Manjoor Alam Village-Sirisya Kalan, P.S.-Adapur, District-East Champaran.
5. Baucha Lal Kumar S/o Late Shankar Sah Village-Harpur Rai P.S.-Harsidhi, District-East Champaran.
6. Ram Parvesh Prasad Kushwaha S/o Sri Ganaur Bhagat Village-Govindapur, P.S.-Turkaulia, District-East Champaran.
7. Pundeo Paswan S/o Late Dukhan Paswan Village-raghunathpur Bhalua, P.S.-Turkaulia, District-East Champaran.
8. Praveen Kumar S/o Shiv Mangal Chy. Village-Chailaha Kuria, P.S.-Banjaria, District-East Champaran.
9. Dhananjay Kumar Kharwar S/o Lallan Prasad Kharwar Village-Bhuski, P.S.-Matiaria, District-East Champaran.
10. Jitendra kumar Sahani S/o Madan sahani Village-Jhakhia, P.S.-Banjaria, District-east Champaran.
11. Bhupendra Kumar Bhargava, S/O Sri Dhrub Pd Yadav Village – Laksharipur Godaria, P.S. -Turkauliya, District – East Champaran.
12. Nagina Mahto S/o Ram Lal Mahto Village-Hasanpur, P.S.-Pipra, District-East Champaran.
13. Suresh Kumar S/o Shauka Chy Village-Raghunathpur, P.S.-Turkaulia, District-East Champaran.
14. Md. Tahir Akhtar S/o Md. Majeed Village-Amar Chatauni, P.O.-Pataura, P.S.-Muffasil, District-Motihari
15. Raushan Kumar S/o Sri Guljar Thakur Village-Gobindapur, P.S.-Turkaulia, District-East Champaran.
16. Pawan Kumar S/o Sri Jagdish Baitha Village-Majhauia, P.S.-Mehsi, District-East Champaran.
17. Mukesh Kumar Patel, S/o Late Lallan Pd. Patel Village-Katgenwa Bhawanipur, P.S.-Nakardehi, District-East Champaran.
18. Niranjana Paswan, S/o Ranjeet Paswan Village- Barka Baluwa, P.S.-Patahai, District-West Champaran.
19. Dinesh Ram, S/o Chandradev Ram Village-Patahai, P.S.-Patahai District-West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Home, Bihar, Patna.
2. The Principal Secretary, Department of Finance Government of Bihar, Patna.
3. The Principal Secretary, Department of General Administration, Government of Bihar, Patna.
4. The Joint Secretary, Department of Home Government of Bihar, Patna.
5. The Joint Secretary, Department of Finance, Government of Bihar, Patna.



6. The Joint Secretary, Department of General Administration, Government of Bihar, Patna.
7. The District Magistrate, East Champaran at Motihari.

... ... Respondent/s

Appearance :

For the Petitioners : Mr. Sanjay Singh, Advocate.
Mr. Uma Kant Prasad, Advocate.
For the Respondents : Mr. Manoj Kumar – AC to GP 4

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 05-02-2019

Heard Mr. Sanjay Singh, learned advocate for the petitioners and Mr. Manoj Kumar, learned AC to GP 4.

2. The petitioners, who are Chowkidars have approached this Court expressing/ventilating their grievance that by way of an amendment in the Bihar Chowkidari Cadre Rules 2006 in the year 2017, the petitioners, as Chowkidars, have been prevented from applying and being promoted to Group-C post of Clerks which is governed by the Bihar Collectorate Clerical Cadre (Recruitment and Conditions of Service) Rules, 2011.

3. Learned counsel for the petitioners has submitted that the Bihar Chowkidari Cadre Rules 2006 was framed under Article 309 of the Constitution of India and the Cadre was defined as comprising such persons who would be serving or would be inducted as Chowkidars on the day the rules came into existence.



The rules further delineate the promotional avenue of a Chowkidar to the higher post of Dafadar which would be determined on the basis of seniority-cum-merit.

4. It has been submitted that hitherto, the position of a Chowkidar was that of a Group-D employee with no provision/avenue of upward mobility into Group-C. This was only possible by way of the Chowkidars applying for becoming Clerks i.e. Group-C, which cadre is controlled by Bihar Collectorate Clerical Cadre (Recruitment and Conditions of Service) Rules 2011. All the posts of this cadre is of Group-C posts. The condition of induction in the aforesaid cadre is by way of limited entry for the post of Chowkidars and Dafadars.

5. However, later it was found that the job profile of a Chowkidar/Dafadar and the Clerks under the Bihar Collectorate Clerical Cadre was essentially different and hence a three-men committee was constituted to provide for certain way in which the promotional avenue to the Chowkidars could be retained but they would not, in that case, be considered for being appointed/promoted to the post of Clerks.

6. The three-men committee, it has been shown to this Court suggested that instead of allowing the Chowkidars and Dafadars to enter into the cadre of



Clerks governed by the Bihar Collectorate Clerical Cadre of 2011, it would be better if out of the posts of Dafadars, some posts would be earmarked for the Chowkidars to be promoted to the post of Principal Dafadars which would essentially be a Class-C post.

7. The aforesaid suggestion has been accepted and an amendment has been brought about in the Bihar Chowkidari Cadre Rules, 2006 by way of amendment in the year 2017 which has been gazetted on 28th of February 2017. Rule 3 describes the constitution of the cadre and lists the following to comprise the same. The base group would be of Chowkidars, who would form part of Group-D service. Above the post of Chowkidar is the post of Dafadar which would fall in Group-C. The third post would be of Senior Dafadar, which shall be second hierarchical posts of the cadre promotion which shall be filled up by promotion of employees working on the post of Dafadars.

8. Learned counsel for the petitioners has submitted that with the present amendment, though the promotional avenue to a Chowkidar from Group-D to Group-C has been retained/maintained but the Chowkidar/petitioners have been prevented from entering into the cadre of Clerks, which is decidedly a



higher cadre. Merely by making a post higher in the echelon does not necessarily mean promotion in its correct perspective. A promotion to a post necessarily implies a higher post with a higher pay-scale, which may be in the same cadre. There is nothing in the amendment, it has been argued, which would demonstrate that the post of a Senior Dafadar would have a higher pay attached to the post, for the upward mobility to a Chowkidar to become a reality.

9. In any view of the matter, learned counsel for the petitioners fairly concedes that in the absence of any challenge to the Government notification/amendment in the cadre rules of 2006 which has been gazetted, no interference could be made with the amendment in the Rules or in the Rules. However, this Court accepts the contention of the learned counsel for the petitioners that there would be no harm in the concerned authority re-visiting the aforesaid issues and take a fresh call over allowing the petitioners to participate in the induction process in the clerical cadre which is governed by the Bihar Collectorate Clerical Cadre (Recruitment and Conditions of Service) Rules, 2011.

10. Under the aforesaid circumstances, the petitioners are directed to make a representation before



the Principal Secretary, Department of General Administration, Government of Bihar, Patna (respondent no. 3) within a period of four weeks enclosing a copy of this order which shall be disposed of by the concerned respondent within a reasonable period of time.

11. This Court expects that the issues raised by the petitioners would be looked into and the entire cadre rules shall be re-visited and if found necessary, amendments shall be recommended.

12. With the aforesaid direction/observation, the writ petition is disposed off.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.02.2019
Transmission Date	

