

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14446 of 2017**

Nitu Singh, aged about 38 years, Wife of Dr. Abhay Kant Choudhary,  
Resident of Flat No.105, Shantilok Apartment, Sheikhpura, Rajabazar, Police  
Station- Shashtri Nagar, Patna- 800014, Presently posted as Secretariat  
Assistant, Commercial Tax Dept, Government of Bihar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Under Secretary, General Administration Department, Government of Bihar, Patna.
4. The Bihar Public Service Commission through its Secretary, having office at Bailey Road, Patna.
5. The Chairman Bihar Public Service Commission having office at Bailey Road, Patna.
6. The Secretary, Bihar Public Service Commission having office at Bailey Road, Patna.

... .. Respondent/s

**Appearance :**

For the Petitioner : Mr. Anand Kumar Ojha, Advocate.  
For the Respondents : Mr. Anil Kumar, AC to SC 8  
For the BPSC : Mr. Sanjay Pandey, Advocate.

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL JUDGMENT**

**Date : 04-01-2019**

Heard Mr. Anand Ojha, learned counsel for the petitioner, Mr. Anil Kumar, learned AC to SC 8 and Mr. Sanjay Pandey, learned counsel for the Bihar Public Service Commission.

2. The petitioner, by the present writ petition has sought a direction to the respondent Commission to recommend her name for being appointed as Section Officer in view of the direction passed by this Court as well as by the division bench in LPA, expressing a desire that such posts should be filled up as early as possible for the effective



functioning of the secretarial departments of the Government.

3. The appointment process was subjected to several rounds of litigation up to Supreme Court, the details of which is not necessary to be recorded here. What is relevant to be stated for the purposes of disposal of this writ petition is that the petitioner, being an applicant in the limited written examination conducted by the Bihar Public Service Commission under Advertisement No. 12 of 2010, secured 140 marks in the general category. It may be noted here that the examination was conducted for filling up 114 posts of Section Officers. The last candidate in the general category has obtained 141 marks. It is the case of the petitioner that the vacancies still exist and those are required to be filled up without any further/new recommendation by the B.P.S.C.

4. For the purpose of brevity, this Court is not delineating the appointment process and the percentage of posts for the Section Officer which was reserved through the limited competitive examination. All that is required to be stated is that 114 names were recommended by the Commission for the employer State to fill up those 114 posts of Section Officers. Because of the pending litigation before Supreme Court over ancillary issues, the State Government/employer, on the legal advice tendered to it has kept 15 posts reserved which would be subject to the outcome of the litigation pending in Supreme Court.



5. Mr. Anand Ojha, learned advocate for the petitioner has submitted that he would have no quarrel with the aforesaid exclusion of 15 posts for the time being, anything the outcome of the litigation in the Supreme Court. But then, those 15 posts according to him would also include such persons who have already been promoted or have superannuated or have been repatriated to their parent department. In that view of the matter, 15 posts would end much below the number 114. Even if the employer/State keeps 15 posts reserved for accommodating such candidates who might get any positive order from the Supreme Court, it would still be open for the State to induct certain persons who would fall within the number of vacancies after deducting 15 posts from the said number of vacancies.

6. For that purpose, the State Government would be required to find out as to how many persons falling between 99 to 114 posts are in a position to join or could join the post of Section Officer. Since only 15 posts have been kept away from being filled up because of pendency of the litigation in Supreme Court, it would only be desirable that if the number goes down below the ladder and if the name of the petitioner falls somewhere in between, she could be accommodated and that also for the purposes of completing the process of selection as also in compliance of the orders of this Court which had expressed its anxiety that the post of Section Officers could not be completed despite the process having begun quite early and about a decade



having been passed without such appointment process having been completed.

7. The State is therefore directed to make an endeavour to prepare a list of those persons who would fall in between the merit list of 99 to 114 candidates who may not join because of some factors and in that case, would consider the candidature of the petitioner for being inducted thereby keeping 15 posts intact for those posts to be filled up later after the result of the litigation in Supreme Court.

8. The aforesaid list be prepared after verifying the records of each of the candidates falling between the merit list of 99-114 and thereafter the representation of the petitioner, which shall be filed within four weeks of passing of this order, shall be disposed of by the concerned respondent authority by a speaking order within four weeks of the filing of the representation by the petitioners.

9. With the aforesaid direction, the writ petition is disposed off.

**(Ashutosh Kumar, J)**

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