

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22455 of 2019

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Niranjan Mukesh Son of Krishna Mohan Prasad, Resident of Village-Civil
Line Sub-Jail Buxar, P.S., Buxar Town, District-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through its the Principal Secretary, Personal and General Administration Department, Bihar, Patna.
2. The Chairman, The Bihar Police Subordinate Service Commission, Patna.
3. The Secretary, the Bihar Police Subordinate service Commission, Patna.
4. The Officer on Special Duty, the Bihar Police Subordinate Service Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Avinash, Advocate Mr. Arvind Kumar Pradhan, Advocate
For the BPSCC	:	Mr. Sanjay Pandey, Advocate Mr. Nishant Kumar Jha, Advocate
For the State	:	Mr. Anil Kumar, Advocate, A.c. to S.C. 8

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 06-12-2019

Heard learned counsel for the parties.

2. The matter arises out of Advertisement No. 1/2019 issued by the Bihar Police Subordinate Service Commission (hereinafter referred to as the ‘Commission’) inviting applications for the post of Police Sub Inspector/Sergeant and other posts. Maximum age has been prescribed under the said advertisement for an aspirant to be eligible, depending on the category they belong to. The petitioner has filed the present writ application, seeking direction to the respondents to allow age relaxation, as



the recruitment in question has been undertaken five years after the last recruitment process. Relying on a circular issued by the State of Bihar in the department of Personnel and Administrative Reforms dated 23.01.2006, it is the petitioner's case that, since he was having the age qualification immediately after the last recruitment process was undertaken and became overage subsequent there to, relaxation should be allowed to him and other similarly situated aspirants, in upper age limit.

3. Learned counsel appearing on behalf of the petitioner has drawn my attention to advertisement No. 02 of 2019 issued by the same Commission inviting applications for the post of Enforcement Sub Inspector and has submitted that age relaxation has been allowed, taking into account the said circular of the State dated 23.01.2006.

4. Learned counsel appearing on behalf of the Commission has relied on a Division Bench decision of this Court rendered on 15.02.2019 in ***LPA No. 1686 of 2018 (Bihar Police Subordinate Service Commission through its Secretary) Vrs. Niranjan Kr. and Ors.*** to contend that the petitioner cannot claim grant of age relaxation, by way of right, on the basis of the circular dated 23.01.2006, as the same has been held to be not binding on the Commission.



5. I have carefully perused the judgment and order of this Court in case of ***Bihar Police Subordinate Service Commission*** (Supra). The Division Bench had the occasion to deal with the recruitment to the post of Sub Inspector of Police in the State of Bihar in that case, which had arisen out of writ application filed by the aspirants claiming age relaxation on the strength of the said circular dated 23.01.2006, with the plea, that there has been delay in the process of selection and, therefore, the aspirants, who became ineligible because of long delay in undertaking the process of selection, should have been allowed benefit of age relaxation. The Division Bench, relying on Supreme Court decision in case of ***Dr. Ami Lal Bhat Vs. State of Rajasthan & Ors.***, reported in (1997) 6 SCC 614, held in paragraphs 6 and 7 as follows:-

“6. Having heard learned counsel for the parties, we do not find any variance in the submissions raised, except for the fact that the observations made by the learned Single Judge virtually indict the Commission in not adopting the circular dated 23rd January, 2006. We are of the considered opinion that the said directive of the State Government is not binding on the appellant Commission as it was issued in the year 2006 when the appellant



Commission was not even in existence. Apart from this, the said direction was in relation to the anomalies having arisen on account of delayed advertisements and selections being held by the Bihar Public Service Commission. There is no such material so as to gather a similar inference with regard to the functioning of the appellant Commission.

*7. So far as the issue of grant of relaxation in age is concerned, it is always open to the employer to proceed to extend any such benefit in matters of public employment, yet the same has to be in accordance with law or else such exercise of power may not withstand the test of judicial scrutiny, as has been held by the Apex Court in the case of **Dr. Ami Lal Bhat** (supra). We find that even though the said judgment had been clearly quoted in the counter affidavit of the Commission before the learned Single Judge, the same has neither been noticed nor any opinion rendered thereon.”*

6. While making the above noted observations, the Division Bench further observed that in the event, the candidates represented the matter for grant of age relaxation, the same could be considered in future.



It is accordingly observed that it will be open for the State of Bihar to take a decision in this regard, if the petitioner makes a representation before the Additional Chief Secretary, Home Department (Police), Government of Bihar.

7. This writ application stands disposed of with the above noted observation.

(Chakradhari Sharan Singh, J)

S.Ali/-

AFR/NAFR	
CAV DATE	N.A.
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