

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24381 of 2018

1. Rahul Kumar Son of Sri Awadh Bihar Singh, Resident of Village-Khairadih, P.O.-Bensagar, PS-Karakat (Gorari), District-Rohtas.
2. Sugriv Mall, Son of Ambrish Mall, resident of Village-Kusumha, PS-Lehani, District-Kushinagar (U.P.).
3. Govind Kumar Barnwal Son of Sri Krishna Murari Barnwal, Resident of Village-Azad Road, Salimpur, District-Deoria(UP).
4. Dilip Kumar Son of Rampyare Prasad, Resident of Village-Kaithwaliya, P.O.-Gopalpur, District-Gorakhpur (U.P.)
5. Dhananjay Giri, Sopn of Dinanath Giri, Ward No.7, Baliwan Sagar, P.S.-Kuchaikote, District-Gopalganj
6. Kamalesh, Son of Sankatha prasad Resident of Village-Kusumhi, PO-Dhanapur, District-Chandauli (U.P.)
7. Pranav Kumar, Son of Shambhu Das, Resident of Vilalge-Jadhua Bazar, PS-hajipur Town, District-Vaishali.

... .. Petitioners

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The principal Secretary, department of General Administration Department, Govt. of Bihar, Patna.
3. The Bihar Staff Selection Commission, through its Secretary, Veterinary College, Patna.
4. The Chairman, Bihar Staff Selection Commission, Patna.
5. The Secretary, Bihar Staff Selection Commission, Patna.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Dinu Kumar, Advocate Ms. Ritika Rani, Advocate
For the Respondent State:		Mr. Ravi Verma, AC to GP-4
For the Commission	:	Mr. S.S. Sundaram, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 22-08-2019 Heard learned counsel appearing on behalf of the
petitioners and learned Assistant Counsel to G.P.-4.

Following is the relief, which the petitioners are
seeking : -



- “(A) For declaring not publishing result of the petitioners in the merit list to the post of Junior Engineer (Civil) against Advertisement No. 0411 as contained in Annexure-10 along with successful candidates who is declared successful to the post of Junior Engineer is an act of arbitrariness, malafide and bad in law.**
- (B) For commanding the Bihar Staff Selection Commission and its authority to declare the petitioners is successful candidates to the post of Junior Engineer (Civil) advertisement no.0411 considering the petitioners have passed Diploma in Polytechnic prior to cut off date 01.08.2011 which is evident from Annexure-10.**
- (C) Also for commanding the respondents to give all consequential services benefit to the petitioners considering the merit position the date from which persons who has got lesser marks that the petitioners have been selected/appointed to the post of Junior Engineer (Civil) against advertisement no.0411 as contained in Annexure-10.**
- (D) Also for necessary relief/reliefs, order/orders, direction/directions for which the petitioners are entitled in the eye of law.”**

Learned counsel appearing on behalf of the petitioners has drawn my attention to a judgment and order of this Court, dated 01.08.2019, passed in C.W.J.C. No. 21892 of 2018, and has submitted that cases of these petitioners are identical to the cases of the petitioners of C.W.J.C. No. 21892 of 2018. She has accordingly argued that this writ application may also be disposed of in the light of the conclusion arrived at by this Court in case of *Md. Zishan Danish and Others vs. The State of*



Bihar and Others (C.W.J.C. No. 21892 of 2018).

Following are the concluding paragraphs of this Court's order dated 01.08.2019, reliance on which is being placed on behalf of the petitioners :

“On perusal of the advertisement, it does not reflect that the Commission has fixed the last date for acquisition of the Diploma qualification, even in a corrigendum, only the period has been extended as mentioned above, but the last date for acquisition of qualification has not been mentioned. In such a situation, it will normally be construed that the last date of receipt of the application will be treated to be the date for acquisition of qualification by the eligible candidate.

From the averment made in the counter affidavit, the petitioners have appeared in the written test and also appeared in the counseling but they were not recommended only on the score that they have acquired the qualification of Diploma after 1.08.2011 and they are making this submission on the strength of Memo No.2808 dated 5.10.2011 (Annexure-B series). At clause 7 in the heading of educational qualification, it has been mentioned that 1.08.2011 will be the last date for acquiring the qualification and any acquisition thereafter will not be valid. This memorandum has been issued after holding of the examination but before the counseling, it was desirable for the Commission that they should provide the last date for acquisition of the qualification in the advertisement, but it is completely silent, when they have already issued advertisement and also corrigendum wherein they have not provided the same, they cannot be allowed to change the rule of the game at the time of holding of counseling. As there was/is no date fixed for the acquisition of qualification, so it will be treated that 11.06.2012 will be the last date for acquisition of qualification for the purpose of selection of Junior Engineer.



Counsel for the petitioners has submitted that all these petitioners have acquired the qualification before 11.06.2012, they were wrongly been deprived for recommending their names by fixing cut off date much after the written examination, so it is not permissible.

Counsel for the petitioners is completely right in his submission and, accordingly, this Court directs the Commission that those who have acquired the qualification on or before 11.06.2012, their cases should be considered, if they secured the minimum bench mark which the Commission has fixed, their names should be recommended for being appointed to the post of Junior Engineer.

With this observations and directions, this writ application is allowed.”

Learned Assistant Counsel to G.P.-4 submits that the conclusion, which has been arrived at by this Court in case of *Md. Zishan Danish and Others* (supra), can be applied to these petitioners also, who are similarly circumstanced.

This application is accordingly disposed of in the light of this Court’s decision in case of *Md. Zishan Danish and Others* (supra).

(Chakradhari Sharan Singh, J)

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