

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8130 of 2020

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Satish Kumar S/o Mahendra Choudhary Resident of New Bijli Colony P.S.
Jahanabad, District- Jahanabad, Bihar presently residing at Jaganpura, P.S.
Ramkrishna Nagar, District- Patna, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Water Resource Department, Government of Bihar, Patna.
2. The Joint Secretary, Water Resource Department, Government of Bihar, Patna.
3. The Chairman, Bihar Public Service Commission, Jawaharlal Nehru Marg, Patna.
4. The Secretary, Bihar Public Service Commission, Jawaharlal Nehru Marg, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Ambuj Kumar Chandra Dr. Juhi Choudhary
For the Respondent State:		Mr. Anjani Kumar, AAG-4
For the Respondent BPSC :		Mr. Ashok Kumar Choudhary Mr. Sanjay Pandey

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 22-03-2021 The facts asserted in the present writ application, filed under Article 226 of the Constitution of India, is that the petitioner had participated in a recruitment process for appointment as an Assistant Engineer on the basis of Advertisement No.1/2006 issued by the Bihar Public Service Commission (BPSC) as a candidate belonging to Scheduled Caste (SC) category. Admittedly, he was not successful as he secured one mark less than the cut off mark fixed for the SC category. He participated in subsequent selection process in 2014, based on which he was appointed and is continuing in



Government service as such after his appointment as an Assistant Engineer.

It is the case of the petitioner that one Vinit Prakash of General Category, who had participated in the selection process of 2006, had secured 12 marks less than the cut off marks. Raising a claim that he should be appointed against a post which remained vacant due to non-joining of candidates, he had approached this Court by filing a writ petition, which was rejected by a Division Bench of this Court by an order dated 29.03.2012 passed in C.W.J.C. No. 7128 of 2010 (Vinit Prakash Vs. The State of Bihar and Others). The said Vinit Prakash approached Supreme Court giving rise to Civil Appeal No. 8358 of 2013 arising out of S.L.P.© No.16332 of 2012, which was disposed of by an order dated 16.09.2013 with a direction to the respondent State of Bihar to consider his case for appointment on the post which was left vacant as the last candidate selected had not joined. The Supreme Court made it clear in the said order that the said order was made in peculiar facts and circumstances of the case and shall not be treated as a precedent.

The petitioner claims in the present writ application that his case should also be considered for appointment against vacancy advertised in 2006 and he should be granted seniority



accordingly as he had missed the chance of selection by only one mark, whereas said Vinit Prakash had secured 12 marks less than the cut off for General Category.

I have heard Mr. Ambuj Kumar Chandra, learned counsel appearing on behalf of the petitioner, Mr. Anjani Kumar, learned AAG-4 for the State of Bihar and Mr. Ashok Kumar Choudhary, learned counsel representing the BPSC. I have also perused the counter affidavit filed on behalf of the State of Bihar and the petitioner's rejoinder to the said counter affidavit.

In my opinion, this application is completely misconceived. By no stretch of imagination, the petitioner's case can be considered for his appointment on the basis of 2006 advertisement. The petitioner had not raised any grievance against his non-selection on the basis of 2006 advertisement at any point of time.

This application has no merit and is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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