

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18447 of 2021

-
-
1. Seema Bharti Wife of Ram Narayan Mishra Resident of near Holly Mission School, Bangali Tola, Balbhadarpur, Police Station - Muffasil, District- Darbhanga.
 2. Prashant Kumar Jha Son of Bhup Narayan Jha Resident of Village - Mohna, Police Station - Rajaun, District- Banka.
 3. Rajendra Kumar Son of Late Mukhtar Kunwar Resident of Village - Sirsa Dighwaduboli, Police Station- Baikunthpur, District- Gopalganj.
 4. Abhik Avtans Son of Balendu Shekhar Tiwary Resident of Flat No. 6 Shivam Apartment, Harihar Singh Road, Morabadi, Police Station- Bariatu, District- Ranchi (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
2. The Commissioner - cum- Principal Secretary, Commercial Taxes, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Bihar Public Service Commission through its Secretary.
5. The Secretary Bihar Public Service Commission, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P. K. Shahi, Sr. Advocate Mr. Mukesh Kumar, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE A. M. BADAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 29-10-2021

Heard learned counsel for the parties.



Petitioners have prayed for the following relief(s):-

- I. For declaration that Rule 39 of Bihar Finance Service Rules, 1953 as ultra vires Article 14 of the Constitution of India inasmuch as it is in teeth of the settled principle of the law of seniority that the seniority shall be determined on the basis of date the person appointed in the cadre, apart from being contrary to the principle laid down by the Hon'ble Apex Court which is being consistently followed in all services of the State Govt.
- II. For direction upon the respondent authorities to amend the Rule 39 of Bihar Finance Service Rules, 1953 from retrospective effect.
- III. For direction upon the respondent authorities to re-draw the seniority of the members of the Bihar Finance Service on the basis of the date of their appointment and not from the year of vacancies declared under Rule 6.
- IV. For any other relief/reliefs to which the petitioners may be entitled to.

After the matter was heard for some time, Shri P.K. Shahi, learned senior counsel fairly states that the petitioners shall first approach the authorities pointing out the anomalies arising as a result of implementation of the Rules. Also, the Rules require to be amended, more so in the light of the opinion given by the learned Advocate General.

As prayed for, we dispose of the present petition in the



following terms:-

(a) Petitioner shall approach Respondent No. 1 namely The Principal Secretary, General Administration Department, Government of Bihar, Patna/Respondent No. 2, namely the Commissioner-cum-Principal Secretary, Commercial Taxes, Govt. of Bihar, Patna, by filing a representation, pointing out the grievance(s);

(b) The said respondents shall consider and dispose it of expeditiously, by a reasoned and speaking order, in accordance with law, preferably within a period of four months from the date of its filing along with a copy of this order;

(c) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(d) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(e) Liberty reserved to the petitioner to approach the Court, if the need so rises subsequently on the same and subsequent cause of action;

(f) We have not expressed any opinion on merits. All questions of fact and law are left open to be adjudicated in an



appropriate proceedings, should the need so arises subsequently;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(A. M. Badar, J)

P.K.P./Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	03.11.2021
Transmission Date	

