

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4556 of 2022

Manish Kumar Choudhary Son of Subodh Kumar Choudhary, Resident of Subash Nagar, Ashram Road, P.S.- K. Hat, District- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary Government of Bihar, Patna.
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The Bihar Technical Service Commission Represented through its Chairman Government of Bihar, Patna.
4. The Chairman, Bihar Technical Service Commission, Government of Bihar, Patna.
5. The Secretary, Bihar Technical Service Commission, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rajiv Ranjan, Advocate Ms. Sangeeta Sharma, Advocate
For the State	:	Mr. Anil Kumar, AC to SC-8
For Respondent No. 3	:	Mr. Nikesh Kumar, Advocate Mr. Praveen Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 19-05-2022

Heard learned counsels for the parties.

In the present petition, petitioner has prayed for following reliefs:-

“1. That this is an application on behalf of the petitioner for issuance of writ/writs Direction/Directions or order orders in from of Mandamus commanding upon the respondents for the grant of following reliefs/ reliefs.

(i) For Direction to the respondent to consider the petitioner for counselling for the post of Junior Engineer (Civil) in the pursuant of advertisement No.



1/2019 issued from the office of Respondent no. 3, Bihar Technical Service Commission, Government of Bihar, Patna for which post petitioner had applied on 4.5.2019.

(ii) For the consideration of the 'EWS' certificate date 24.12.2020 issued from the office of Circle Officer Punia, East, Government of Bihar for the category Economically weaker section.

(iii) For the disposal of representation dated 23.12.2020, sent through E-mail to the office of the respondent no. 4 Chairman, Bihar Technical Service Commission, Government of Bihar, Patna.

(iv) Other relief/reliefs/ which the petitioner is found entitled to.”

Petitioner is a candidate for recruitment to the post of Junior Engineer (Civil). Pursuant to the advertisement No. 01 of 2019, issued by Respondent No. 3, petitioner was not invited for counselling. Thus, petitioner has approached this Court. Respondent Nos. 3 to 5 have filed their counter statement. In para 7 of the counter affidavit, they have specifically contended that the petitioner has not claimed EWS category.

Learned counsel for 3rd respondent has also pointed out from Annexure-1 which is application to the post of Junior Engineer (Civil) of the petitioner under the reservation category. Petitioner has specifically mentioned 'EWS-NO'. Therefore, Respondent No. 3- Commission has considered the



petitioner's candidature only under general category. Petitioner could not be accommodated within the zone of consideration under the general category. Petitioner claimed EWS category at the time of counselling. The same was not accepted by Respondent No. 3.

Therefore, question for consideration in the present petition is whether petitioner is entitled to change his category for the post of Junior Engineer (Civil) from general category to that of EWS at the stage of counselling or not?

Para 7 of the counter affidavit reads as under:

“That at this stage it is humbly and respectfully submitted that the contention of the petitioner that he has applied in the category of general (EWS) is not correct which could be evident from perusal of his online application, which the petitioner has annexed as Annexure-1 at page 13 of his writ petition in which he has clearly categorised himself in the column of category as General and specifically written in the column of EWS-No. It is submitted that in the online application of the petitioner the petitioner has not claimed the category as EWS. It is submitted that the petitioner at the time of counselling has claim for the benefit of EWS by virtue of one certificate issued dated 24.12.2020 from the office of Circle Officer, Purnea, which is not permissible in the light of the clear provision of the Advertisement by virtue of the specific direction of the Department of General Administration, Govt. of Bihar, Patna by Memo No. 16144 dated 28.11.2012, which forbids any change of category of reservation after filing of the application during pendency of the recruitment process. Thus it is humbly submitted



that the claim of the petitioner for having the benefit of EWS in the General Category is not permissible in view of the clear provision of the General Administration Department, Govt. of Bihar as the petitioner has not claimed the above category in his online application.”

In the light of candidature instruction in the advertisement that candidate is not entitled to change the category, the petitioner is not entitled to seek change of category from general to that EWS at the time of counselling stage. Therefore petitioner has not made out a case.

Accordingly, present petition stands dismissed.

(P. B. Bajanthri, J)

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CAV DATE	
Uploading Date	21.06.2022
Transmission Date	

