

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1430 of 2021

1. Sanjay Kumar Giri Son of Bhagwat Giri Resident of Village- Mumbarakpur, P.o. and P.s.- Marhaura, District- Saran (Chapra) - 841418
2. Jay Kishore Singh Son of Bhup Narayan Singh Resident of Village- Bhawanpur, P.o. and P.s.- Adapur, District- East Champaran- 845301
3. Durgendra Kumar Jha Son of Late Suresh Jha Resident of Village and P.o.- Dhadhiya, P.s.- Kamtaul, District- Darbhanga-847304
4. Ramesh Kumar Son of Late Jagannath Prasad Resident of Village- Dumra, P.o.- Jautiya, P.s.- Chanpatiya, District- West Champaran (Bettiah) - 845449
5. Imran Alam Son of Late Md. Kashim Resident of Village- Pakahi, P.o.- Andhra, P.s.- Adapur, District- East Champaran (Motihari) - 845433
6. Md. Sarfe Alam son of Late Lal Mohammad Resident of Village- Brahmpurra (Kumhar Toli), P.o.- M.I.T., P.s.- Brahmpura, District- Muzaffarpur - 842003
7. Bangur Yadav Son of Late Shivmangal Yadav Resident of Village and P.o.- Gudra, P.s.- Manjhaulia, District- West Champaran 845454
8. Mahesh Kumar Yadav Son of Late madhukar Yadav Resident of Village- Pokhar Shaam, P.o.- Salempur, P.s.- Pandol, District- Madhubani - 847234
9. Haihar Yadav Son of Shiv Vachan Yadav Resident of Village and P.o.- Manikpur, P.s. and District- Gopalganj - 841428
10. Ramjeet Chaudhary Son of Rekha Chaudhary Resident of Village and P.o.- Manikpur, P.s. and District- Gopalganj - 841428
11. Yadulal Yadav Son of Late Shri Ram Anuj Rai Resident of Village- Nayaganw Jamanipur, P.o. and P.s.- Maner, District- Patna - 801108
12. Shankar Prasad Gupta Son of Virendra Prasad Gupta Resident of Village- Brahmpura, Lakshmi Chowk, P.o.- M.I.T., P.s.- Brahmpura, District- Muzaffarpur - 842003
13. Arvind Kishroe Prasad Son of Shri Raghav Sharan Prasad Resident of village and P.o.- Ramchandrapur, P.s.- Thawe, District- Gopalganj - 841440
14. Nand Kishore Bhagat Son of Baiju Lal Bhagat Resident of Village- Brahmpura (Awadh Bihari Lane), P.o.- M.I.T., P.s.- Brahmpura, District- Muzaffarpur - 842003
15. Md. Sohail Alam Son of Md. Aslam Resident of Village- Brahmapur Daudbpur Kothi, P.o.- M.I.T., P.s.- Brahmpura, District- Muzaffarpur - 842003

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Government of Bihar, Patna
2. The Principal Secretary Education Department, Government of Bihar, Patna
3. The Director, General Education cum Additional Secretary, Education Department, Bihar, Patna



4. The Director, Science and Technology Department, Government of Bihar,
Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashish Giri, Advocate
For the Respondent/s : Mrs. Binita Singh, SC 28

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

Date : 31-01-2022

This matter is heard *via* video conferencing due to
circumstances prevailing on account of the COVID-19 Pandemic.

In the instant petition, petitioners have prayed for the
following reliefs:-

*(A) A writ in the nature of
MANDMUS or any other appropriate
writ/s, order/s, direction/s directing the
Respondent Authorities to appoint the
petitioners against vacant Class IV post in
the Science & Technology Department,
Government of Bihar.*

*(B) To hold and declare that the
petitioners ought to have been given
preference for appointment in Class IV
post in Science & Technology Department,
Government of Bihar in terms of the order
of the Hon'ble Patna High Court date
d26.06.2001 passed in CWJC No. 2844 of
2001 and that no post therein could be
filled up without granting opportunity to
the petitioners after weightage of marks
and age relaxation.*

*(C) To hold and declare that the
actions of the Respondent Authorities in
proceeding to filling up the said Class IV
post in Science and Technology
Department by appointment of 23
candidates in terms of letter dated*



25.02.2020 without any opportunity to the petitioners is discriminatory and violative of Article 14 & 16 of the Constitution of India and also in teeth of the order 26.06.2001 passed in CWJC No. 2844 of 2001 and other analogous cases.

(D) To pass appropriate interim/ex-parte interim relief during the pendency of the present writ petition preventing the respondent authorities from filling up vacant Class IV Post in Science and Technology Department, Government of Bihar, Patna and /or keeping the seats vacant for the petitioners.

(E) To pass any other appropriate relief/s to which the petitioner is found entitled to.”

On 03.01.2022, the following order was passed:-

“Petitioners were stated to have been appointed in the year 1997 on contract basis with the respondent-Director, Science and Technology Department. Their services were terminated and they had approached this Court. This Court disposed of their petitions by observing that in future if the Science and Technology Department undertakes recruitment for regular appointment petitioners are entitled to weightage. Thereafter, the Science and Technology Department has not undertaken regular recruitment pursuant to the Bihar Group-D(Recruitment and Service Condition) Rules, 2010, even to this date. On the other hand, they have absorbed 23 persons on 25.02.2020 from various departments of the State of Bihar.

In the light of these facts and circumstances, the respondent is hereby directed to give an undertaking in



consultation with the General Administration Department, State of Bihar that by which time the regular recruitment of 365 posts or remaining vacancies would be notified whether in pursuance of aforesaid Rules, 2010 or in framing of fresh rules so as to know the fate of the petitioners. Some of the petitioners are aged about 51-53 years. Such affidavit be filed within a period of ten days.

List this matter on 13.01.2022.

Thereafter, on 13.01.2022, the following order was

passed:-

“This matter is heard via video conferencing due to circumstances prevailing on account of COVID-19 Pandemic.

Order dated 03.01.2022 has been complied with in filing counter statement in the Registry and the same has not been tagged with the record.

Accordingly, the Registry is hereby directed to tag the counter statement filed by the learned counsel for the State with the record.

At this juncture, learned counsel for the petitioners submits that there is no full compliance of order dated 03.01.2022. If there is no full compliance to the order dated 03.01.2022, in that event, respondent Director, Science & Technology Department, Government of Bihar, Patna is hereby directed to appear in person along with the complete records on the next date of hearing.

Re-list this matter on 20.01.2022.”

Fourth Supplementary counter affidavit has been filed

by the fourth respondent no. 4 by one Mr. Sanjiv Kumar, Director



Science & Technology Department. In paragraph 7 it is stated as under:-

“7. That it is humbly submitted that in view of the above, the department of Science and Technology is ready to proceed with the existing Rules as on date for recruitment on remaining Posts of Class IV. But the Department is finding difficulties on two fronts while carrying out immediate advertisement for Class IV Post which are stated herein below:-

(a) That department is duty bound to comply the order and direction passed by Hon'ble Supreme Court in SLP No. 32079/15 and order passed by Hon'ble High Court in L.P.A. No. 1489/2011 and Civil Review No. 344/2016 and subsequent State Government's decision. And in compliance to the aforesaid orders, the department has reported all the vacancies available in group-D to the Education Department. Till date 270 candidates among retrenched non formal education instructors belonging to non formal education schemes have been recommended by the Education Department for adjustment against existing vacancies of class IV posts in the Department of Science and Technology. Out of these 270, 187 Candidates have already been appointed/adjusted and for the remaining 83 Candidates, verification of documents is fixed on 20.01.2022 and 21.01.2022, after which appointments letter will be issued. And these 83 persons shall be adjusted against the remaining 365 vacancies. There is also a possibility that more request for adjustment of retrenched non formal education instructor may be received in light of order passed by Hon'ble Supreme Court in SLP No. 32079/15 and order passed by Hon'ble High Court in L.P.A. No. 1489/2011 and Civil Review No. 344/2016 and decision of the State Government which also shall have to be adjusted. As all the vacancies in Class IV



Post existing on that time were reported to Education Department vide letter no. 3126 dated 09.09.2019. A true copy of letter 3126 dated 09.09.2019 is annexed and marked as Annexure-K.

(b) That it is humbly further submitted that another difficulty will be that the Department of Science and Technology can only advertise those vacancies which are left after exhausting the process of adjustment of Candidates belonging to retrenched non formal education instructor as communicated to Education Department. And the qualification for Bihar Group D Post (Recruitment and Service Condition) Rules, 2010 (Amended from time to time) provides for matriculation (Class Xth pass) as the minimum educational qualification. As such, it is expected that the number of applications for the advertised vacant posts will be in lakhs and therefore manual handing as well as scrutiny of applications will be a very difficult tasks and in such situation the department shall be required to develop a robust IT solution, which will be secure, stable for processing of the applications. That for development of such a system it will be required minimum six months time.”

Today, Director, Science and Technology Department, Patna has appeared. Pursuant to earlier order it is submitted by him that minimum six months' time is required to notify the vacancies as it is a cumbersome process. Six months' time for notifying vacancies would be too long since recruitment Rules of Bihar Group D Post (Recruitment and Service Condition) Rules, 2010 is already existing and vacancies are very much available. Petitioners



are aged fifty plus they are entitled to age relaxation and certain benefits if the posts are advertised.

On the other hand, respondents have appointed 23 candidates against Class-IV post in Science and Technology Department.

Having regard to the litigation after litigation on behalf of the petitioners, the respondent Science and Technology Department has shown inaction resulted in presenting this petition.

Having regard to the dates and events, Director Science and Technology Department is hereby directed to initiate process of recruitment to the Class-IV post of 282 vacancies on war footing basis and complete the process of selection and appointment within a period of eight months from today. If the petitioners participate in the process of selection and appointment necessary relaxation be given in terms of judicial pronouncements, if any. Appearance of Director, Science and Technology Department, Patna is dispensed with.

With the aforesaid observations, the present writ petition stands disposed off.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

