

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.30 of 2021

In
Letters Patent Appeal No.249 of 2014

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1. Om Prakash son of Rajendra Prasad C/o.- F.C. Ram, Resident of mohalla-Chandpur Bela, Shivpath, P.S. Jakkanpur, P.O. G.P.O., District- Patna.
 2. Amit Kumar son of Shri Indu Bhushan Prasad resident of Village-Makshudpur, P.S.- Fatuha, District- Patna.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Department of Transport (Enforcement Branch), Patna.
2. The Chairman, Bihar Staff Selection Commission, Veterinary College, Patna- 800014.
3. The Secretary, Bihar Staff Selection Commission, Veterinary College, Patna- 800014.

... .. Opposite Parties

Appearance :

For the Petitioners : Mr. Sanjay Kumar No.1, Advocate
For the Opposite Party BSSC: Mr. Sanjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE KHATIM REZA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 07-12-2022

Two petitioners, in the present application, filed under Section 114 read with Order XXVII, Rule 1 of the Code of Civil Procedure, are seeking review of a judgment and order dated 24.11.2015 passed by a co-ordinate Bench of this Court in LPA No. 249 of 2014, whereby the said appeal preferred by these petitioners was dismissed.



2. The controversy involved before the co-ordinate Bench in LPA No. 249 of 2014, related to a process of selection initiated by the Bihar Staff Selection Commission for appointment as Assistant Sub-Inspectors in the Transport Department. The petitioners had earlier approached this Court by filing a writ petition giving rise to CWJC No. 5135 of 2013, questioning the result arising out of the process of selection mainly on the ground that there was no indication, in the advertisement, as to what would be the cut-off marks for passing the interview held by the Commission and that the qualifying marks, for the interview, was fixed later and, thus, the selection process suffered from illegality. The writ petition was dismissed by a Single Bench decision of this Court rendered on 13.12.2013, assailing which the petitioners had filed the aforesaid LPA No. 249 of 2014. The co-ordinate Bench of this Court, while considering the issues thrashed before the Bench, rejecting the petitioners claim recorded following findings in paragraphs 23 to 25: -

“23. We do not, therefore, find that merely because of the fact that the advertisement, in question, did not specifically mention that there would be minimum qualifying marks for the interview, the selection process called for interference, particularly, when we notice that the appellants herein did not fail in interview or, in



other words, as the appellants had succeeded in the interview, the effect was that the omission to mention in the advertisement that there would be minimum qualifying marks for a candidate to succeed in the interview has not caused any prejudice to the appellants.

24. What is also not in dispute is that the total marks in the interview was 20 and the minimum qualifying marks for a candidate of Most Backward Class and Backward Class were 139 and 145 respectively.

25. What also emerges from the submissions made and the materials on record that the appellant No.1, namely, Om Prakash, who belongs to Most Backward Class category, had secured 142 marks, whereas the cut off marks for the candidates called for interview, under Most Backward Class category, was 139, and, similarly, in the case of the appellant No.2, Amit Kumar, had secured 150 marks, whereas the cut off marks for the candidates called for interview, under the Backward Class category, to which the appellant No.2 belongs, was 145.”

3. After having held so, the Court dismissed the LPA by the order dated 24.11.2015, review of which is being sought in the present application.

4. Strangely enough, nearly four years after the LPA No. 249 of 2014 was dismissed, the petitioners filed a writ application,



giving rise to CWJC No. 9067 of 2019, raising the same issue, which was rejected by the co-ordinate Bench of this Court in LPA No. 249 of 2014 (paragraph 20 thereof). The petitioners wanted to make out a case in the writ proceeding, i.e., CWJC No. 9067 of 2019, that subsequent to decision of the Division Bench, the petitioners learnt that some of the candidates had been awarded more than 20 marks in the interview, which could not be brought to the notice of the Division Bench in the absence of requisite knowledge. The writ petition was, however, dismissed by an order dated 18.02.2020 deliberating upon the fact that the matter had already attained finality at the level of the Division Bench of this Court. The petitioners sought for a liberty to file a review application for review of the order of the Division Bench dated 24.11.2015 passed in LPA No.249 of 2014, this Court made following observation, in response to the said submission, in paragraph 4:-

“4. The petitioner is seeking liberty to file review application against the order of the Division Bench. It would be inappropriate for this bench sitting singly to grant such liberty to approach the Division Bench. What recourse is legally permissible is always open for the petitioner to take.”



5. This review application has been purportedly filed in the light of the so-called liberty granted by this Court by order dated 18.02.2020, seeking review of the judgment and order rendered on 24.11.2015 by the Division Bench in LPA No. 249 of 2014.

6. We, after having considered the issues raised by these petitioners in CWJC No. 5135 of 2013 and in LPA No. 249 of 2014 as well as this Court's order dated 18.02.2020, are of the definite opinion that the conduct of these petitioners in filing the present review application, raising the same issue in relation to the same selection process time and again deserves to be deprecated strongly. In our opinion, no ground is made out for reviewing a judgment, delivered more than five years before filing of the review application in respect of a selection process initiated in 2004.

7. Mr. Sanjay Kumar, learned counsel appearing on behalf of the petitioners has submitted that the petitioners can demonstrate that some of the candidates have been awarded more marks than the maximum marks fixed for interview and, therefore, this Court's decision rendered on 24.11.2015 in LPA No. 249 of 2014 deserves to be reviewed.



8. In our opinion, the petitioners have not been able to make out a case that despite due diligence, they were not in a position to bring relevant facts to the notice of the co-ordinate Bench, which delivered the judgment dated 24.11.2015 under review.

9. This application is accordingly dismissed as being devoid of any merit. As the petitioners have ventured to avail the luxury of filing the earlier writ petition, i.e., CWJC No. 9067 of 2019 and the present review application, we are of the view that their conduct warrants imposition of cost in order to deter them from filing vexatious petitions before this Court. Accordingly, we impose a cost of Rs. 5,000/- payable separately by each of the petitioners in the account of Bihar State Legal Service Authority within three months from today.

10. This application is accordingly dismissed with the costs as quantified hereinabove.

(Chakradhari Sharan Singh, J)

(Khatim Reza, J)

Pawan/-

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