

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No. 568 of 2021

1. Jay Prakash Arya Son of Ramlal Sah Resident of Village and P.O.- Rewasi, P.S.- Riga, District- Sitamarhi.
2. Rohit Kumar Son of Raman Bhagat Resident of Village- Mohana, P.O.- Tehwara, P.S.- Katra, District- Muzaffarpur.
3. Nikku Kumar Son of Dinesh Prasad Singh Resident of Village- Sultanpur, P.O.- Hansauri, P.S. and District- Sheikhpura.

... .. Appellant/s

Versus

1. Md. Shahanshah Alam Son of Md. Sabir Alam Resident of Village - Taiyabpur, P.S. - Kadwa, District Katihar.
2. Md. Waquar Alam Ansari, Son of Md. Mansoor Alam Ansari Resident of Village and P.S.- Parihar, District - Sitamarhi.
3. Md. Jane Alam Son of Md. Shahjad Ansari Resident of Village - Jhakhaura, P.S. Haspura, District - Aurangabad.
4. Lokeshwar Anand, Son of Kameshwar Singh Resident of Lala Colony, P.S. Dehri On-Sone, District - Rohtas.
5. Wakil Ahmad, Son of Abdul Manan Ansari Resident of Village - Nagra, P.S. - Khairah, District - Saran.
6. Md. Adnan Shami, Son of Md. Faiyaz Shami Resident of Village - Purnea, P.S. K. Ghat, District - Purnea.
7. Md. Danish Salim Son of Md. Salim Resident of Village - Sabar, P.S. Karamchat, District - Kaimur, Bhabhua.
8. Md. Manzar Hussain, Son of Md. Alam Resident of Village - Taiyabpur, P.S. - Kadwa, District - Katihar.
9. Md. Imran Alam, Son of Md. Khurshid Ansari Resident of Village - Naviganj, P.S. Ekangarsarai, District - Nalanda.
10. Abdul Rahman, Son of Rahmat Ali Ansari Resident of Village - Mustafabad, P.S. Goriya Kothi, District - Siwan.
11. Md. Danish Raza, Son of Md. Mumtaz Alam Resident of Village - Haiderganj, Karah, P.S. - Silao, District - Nalanda.
12. Md. Nemat Karim, Son of S.M. Zafar Imam Resident of Village - Sheikhpura, Dangarwara, P.S.- Keoti, District - Darbhanga.
13. Md. Nazim, Son of Md. Quamrul Hodda Resident of Village - Chakmaka, P.S. Simri Bakhtiyarpur, District - Saharsa.
14. Md. Athar Imam Ansari, Son of Abdul Wahab Ansari Resident of Village - Minapur, P.S. Hajipur Nagar, District - Vaishali.
15. Raju Alam, Son of Zafar Alam Resident of Village - Amjhar Sharif, P.S. Haspura, District - Aurangabad.
16. Md. Irfan Ahmad, Son of Md. Jamal Ahmad Resident of Ward No. 28, Faiz



Colony, P.S. Katri, District - Gaya.

17. Suraj Kumar Chaurasia, Son of Raj Kishore Chaurasia Resident of Village - Nautan, P.S. Ekama, District - Saran.
18. Meraz Alam, Son of Samsul Ansari Resident of Village- Sawar, P.S.- Karamchat, District - Kaimur, Bhabhua.
19. Md. Saquib Nadeem, Son of Md. Ijtaba Hassan Resident of Village - Parsa, P.S. Bela, District - Sitamarhi.
20. Avinash Kumar Chaudhary, Son of Ramesh Chaudhary Resident of Village - Lakhanibigha, Near Cold Store, P.S. Danapur, District - Patna.
21. Md. Aquib Khateeb, Son of Khateebul Hasan Resident of Village - Bara, P.S. Chakand, District Gaya.
22. Aditya Kumar, Son of Late Manmohan Dikshit Resident of Village - Kilpur, P.S. Nautan, District - Siwan.
23. Md. Sajid Khan Son of Md. Shahid Khan Resident of Village - Mansa Tola, P.S. Bettiah, District - West Champaran.
24. Faiz Ahmed Faiz, Son of Md. Israil Resident of Village - Bambaiya Harlat, P.S. Dalsinghsarai, District - Samastipur.
25. Md. Adil Husain, Son of Kausar Ansari Resident of Village - Barharwa Fate Mohammad, P.S. Kundwa Chainpur, District - East Champaran.
26. Sarwar Alam, Son of Md. Naiyar Alam Resident of Village - Bachgaon, P.S. Jalalgarh, District - Purnea.
27. Subham Kumar, Son of Sri Bhim Prasad Resident of Village - Jehta, P.S. Makhdumpur, District Jehanabad.
28. Mannu Alam Son of Mustquim Ansari Resident of Village - Nabiganj, P.S. Barhariya, District - Siwan.
29. Ram Gopal Singh, Son of Ram Dulare Singh Resident of Village - Kalyan Chhapar (Bada), P.S. Duber Asthan, District - Kushinagar (U.P).
30. The Bihar Technical Service Commission through its Chairman, Patna.
31. The Secretary, Bihar Technical Service Commission, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 2893 of 2020

1. Jay Prakash Arya Son of Ramlal Sah, Resident of Village and P.O.- Rewasi, P.S.- Riga, District- Sitamarhi.
2. Rohit Kumar, Son of Raman Bhagat, Resident of Village- Mohana, P.O.- Tehwara, P.S. Katra, District- Muzaffarpur.
3. Nikku Kumar, Son of Dinesh Prasad Singh, Resident of Village- Sultanpur, P.O. Hansauri, P.S. and District- Sheikhpura.

... .. Petitioner/s



Versus

1. The State of Bihar through Chief Secretary, Government of Bihar.
2. Additional Chief Secretary, General Administrative Department, Government of Bihar.
3. Bihar Technical Service Commission, through its Secretary 19 Harding Road Patna, Bihar.
4. Chairman Bihar Technical Service Commission, 19 Harding Road, Patna.
5. Deputy Secretary, Bihar Technical Service Commission, 19 Harding Road, Patna.
6. Jitendra Kumar Singh Son of Ramesh Kumar Singh Resident of Maharana Pratap Nagar, Arrah, P.S.- Nawada, District- Bhojpur.
7. Prashant Kumar Son of Ram Prit Yadav Resident of Rastriya Ganj, Opp- Taj Enclave, P.S.- Phulwarisharif, District- Patna.
8. Aman Deep Kumar Son of Ram Kumar Mehta Resident of Village- Bairiya, P.S.- Gopalpur, District- Patna.
9. Kunal Kumar Son of Sudarshan Singh Resident of Village- Jagdishpur, P.S.- Konch, District- Gaya.

... .. Respondent/s

with
Letters Patent Appeal No. 642 of 2021
In
Civil Writ Jurisdiction Case No.9817 of 2020

1. The Bihar Technical Service Commission through its Chairman.
2. The Secretary, Bihar Technical Service Commission, Patna.

... .. Appellant/s

Versus

1. Md. Shahanshah Alam Son of Md. Sabir Alam Resident of Village - Taiyabpur, P.S. - Kadwa, District Katihar.
2. Md. Waquar Alam Ansari Son of Md. Mansoor Alam Ansari Resident of Village and P.S.- Parihar, District - Sitamarhi.
3. Md. Jane Alam Son of Md. Shahjad Ansari Resident of Village - Jhakhaura, P.S. Haspura, District - Aurangabad.
4. Lokeshwar Anand Son of Kameshwar Singh Resident of Lala Colony, P.S. Dehri On-Sone, District - Rohtas.
5. Wakil Ahmad Son of Abdul Manan Ansari Resident of Village - Nagra, P.S. - Khairah, District - Saran.
6. Md. Adnan Shami Son of Md. Faiyaz Shami Resident of Village - Purnea, P.S. K. Ghat, District - Purnea.
7. Md. Danish Salim Son of Md. Salim Resident of Village - Sabar, P.S.



Karamchat, District - Kaimur, Bhabhua.

8. Md. Manar Hussain Son of Md. Alam Resident of Village - Taiyabpur, P.S. - Kadwa, District - Katihar.
9. Md. Imran Alam Son of Md. Khurshid Ansari Resident of Village - Naviganj, P.S. Ekangarsarai, District - Nalanda.
10. Abdul Rahman Son of Rahmat Ali Ansari, Resident of Village - Mustafabad, P.S. Goriya Kothi, District - Siwan.
11. Md. Danish Raza Son of Md. Mumtaz Alam Resident of Village - Haiderganj, Karah, P.S. - Silao, District - Nalanda.
12. Md. Nemat Karim Son of S.M. Zafar Imam Resident of Village - Sheikhpura, Dangarwara, P.S.- Keoti, District - Darbhanga.
13. Md. Nazim Son of Md. Quamrul Hoda Resident of Village - Chakmaka, P.S. Simri Bakhtiarpur, District - Saharsa.
14. Md. Athar Imam Ansari Son of Abdul Wahab Ansari Resident of Village - Minapur, P.S. Hajipur Nagar, District - Vaishali.
15. Raju Alam Son of Zafar Alam Resident of Village - Amjhar Sharif, P.S. Haspura, District - Aurangabad.
16. Md. Irfan Ahmad Son of Md. Jamal Ahmad Resident of Ward No. 28, Faiz Colony, P.S. Katri, District - Gaya.
17. Suraj Kumar Chaurasia Son of Raj Kishore Chaurasia Resident of Village - Nautan, P.S. Ekama, District - Saran.
18. Meraz Alam Son of Samsul Ansari Resident of Village- Sawar, P.S.- Karamchat, District - Kaimur, Bhabhua.
19. Md. Saquib Nadeem Son of Md. Ijtaba Hassan Resident of Village - Parsa, P.S. Bela, District - Sitamarhi.
20. Avinash Kumar Chaudhary Son of Ramesh Chaudhary Resident of Village - Lakhanibigha, Near Cold Store, P.S. Danapur, District - Patna.
21. Md. Aquib Khateeb Son of Khateebul Hasan Resident of Village - Bara, P.S. Chakand, District Gaya.
22. Aditya Kumar Son of Late Manmohan Dikshit Resident of Village - Kilpur, P.S. Nautan, District - Siwan.
23. Md. Sajid Khan Son of Md. Shahid Khan Resident of Village - Mansa Tola, P.S. Bettiah, District - West Champaran.
24. Faiz Ahmed Faiz Son of Md. Israil Resident of Village - Bambaiya Harlat, P.S. Dalsinghsarai, District - Samastipur.
25. Md. Adil Hussain Son of Kausar Ansari Resident of Village - Barharwa Fate Mohammad, P.S. Kundwa Chainpur, District - East Champaran.
26. Sarwar Alam Son of Md. Naiyar Alam Resident of Village - Bachgaon, P.S. Jalalgarh, District - Purnea.
27. Shubham Kumar Son of Sri Bhim Prasad Resident of Village - Jehta, P.S. Makhdumpur, District Jehanbad.
28. Mannu Alam Son of Mustquim Ansari Resident of Village - Nabiganj, P.S. Bharhariya, District - Siwan.



29. Ram Gopal Singh Son of Ram Dular Singh Resident of Village - Kalyan Chhapar (Bada), P.S. Duber Asthan, District - Kushinagar (U.P).

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 3188 of 2021

1. Pankaj Kumar Son of Chandeshwar Prasad Yadav, Resident of Pathsharma, Near Concept Public School, Gaighat, Patsawan, Donimaknawan, P.O.-Hasna, P.S. and District-Muzaffarpur, Pin Code-843103.
2. Pramod Kumar Choudahry Son of Awadhesh Choudahry, Resident of Choudhary Tola, Sakarpura, P.O.-Bhobhi, P.S.-Naar Nausa, District-Nalanda, Pin Code-801302
3. Shashi Ranjan Kumar Son of Vijay Kumar Gupta Resident of Village and P.O. and P.S.-Chiraiya, District-East Champaran, Pin Code-845415.
4. Gulshan Kumar Son of Sonelal Sah Resident of Village and P.O.-Madhuban, P.S.-Gulware Madhuban, District-East Champaran, Pin Code-845420.

... .. Petitioner/s

Versus

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

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5166 of 2021

1. Sushant Raj Son of Late Shambhu Sharan Singh, resident of Village - Gangauli, P.S. - Mashrakh, District - Saran.
2. Shubham Kumar Singh, Son of Hari Charan Singh, resident of Village - Gangauli, P.S. - Mashrakh, District - Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Bihar, Patna.
2. Principal Secretary, General Administration Department, Bihar, Patna.



3. Bihar Technical Service Commission, 19, Harding Road, Patna through its Secretary.
4. Secretary, Bihar Technical Service Commission, 19, Harding Road, Patna.
5. Deputy Secretary, Bihar Technical Service Commission, 19, Harding Road, Patna.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 568 of 2021)

For the Appellant/s : Mr. Y.V.Giri, Sr. Advocate
Mr.Pranav Kumar, Advocate
Ms.Shrishti Singh, Advocate
For the Respondent/s : Mr.P.K.Sahi, Sr. Advocate
Mr.Mukesh Kumar, Advocate
Mr.Sanjiv Kumar, Advocate
For the B.T.S.C : Mr.Nikesh Kumar, Advocate

(In Civil Writ Jurisdiction Case No. 2893 of 2020)

For the Petitioner/s : Mr.Ritika Rani
For the Respondent/s : Mr.Md.Irshad AC to Sc1

(In Letters Patent Appeal No. 642 of 2021)

For the Appellant/s : Mr.Nikesh Kumar
For the Respondent/s : Mr.

(In Civil Writ Jurisdiction Case No. 3188 of 2021)

For the Petitioner/s : Mr.Abhinav Srivastava
For the Respondent/s : Mr.Lalit Kishore (Ag)

(In Civil Writ Jurisdiction Case No. 5166 of 2021)

For the Petitioner/s : Mr.Harshvardhan Shivsundaram
For the State : Mr.Md. Irshad, AC to SC1
For the B.T.S.C : Mr. Nikesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 20-12-2022

LPA No. 642 of 2021

Learned counsel for the appellants seeks permission to
withdraw Letters Patent Appeal No. 642 of 2021.

Accordingly, Letters Patent Appeal No. 642 of 2021 is
dismissed as withdrawn.

LPA No. 568 of 2021



The present appeal by the third party who were not party to CWJC No. 9817 of 2020 decided on 07.09.2021. The appellants filed Interlocutory Application seeking permission of this Court permitting them to file LPA (by third party) and it was allowed on 22.02.2022 since respondents have expressed that they have no objection.

Respondent original petitioners have prayed for the following relief(s):-

“a) For quashing the Clause-13 of a guideline issued by the Bihar Technical Service Commission (in short Commission) pursuant to advertisement no. 01/2019 contained in letter no. 1242 dated 24.11.2020 to the extent whereby and where under it has been stipulated that since the online application has been received till 17.02.2020, therefore, all educational certificate, mark-sheet issued within 17.02.2020 shall be valid.

b) For declaration by the Hon’ble court that the stipulation made in Clause-13 contained in letter no. 1242 dated 24.11.2020 issued by the Secretary of the Commission is arbitrary, discriminatory and in violative of the principle enshrined under Article-14 of the Constitution of India.

c) For direction to the respondent Commission to extend the cut-off date of work experience on contract from 28.02.2019 to 17.02.2020 and also give the benefit accordingly to the candidates appearing in the selection process for the post of Junior Engineer.

d) For direction to the respondent Commission to publish the merit list after extending the cut-off date of work experience



i.e., 28.02.2019 to 17.02.2020 and then only called the candidates in counseling.

e) For any other relief/reliefs to which the petitioners may be entitled to."

Learned Single Judge while disposing CWJC No. 9817 of 2020 dated on 07.09.2021 passed the following order in Para 15 which reads as under:-

"15. Considering the facts and circumstances and the discussions as aforesaid, the Court directs the Commission to consider shifting the cut-off date, as prescribed in advertisement, to appropriate date so as to allow benefit of work experience which the petitioners and other similarly situated persons acquired during the process of selection, for them to suitably come in competition with other candidates who were not eligible in terms of the original advertisement but have become eligible under the orders of this Court and under the decision of the Commission."

Feeling aggrieved by the order of the learned Single Judge third party namely appellants filed this present LPA on the score that in the event of extension of certain benefits to the original petitioners-respondents the right of the appellants would be affected.

Brief facts of the case are that on 08.03.2019 Junior Engineer post were advertised by the respondent-Commission. In the advertisement it is made crystal clear that such of those candidates who intends to participate in the process of selection and appointment to the post of Junior Engineer that certain marks



have been earmarked for such of those contract appointees. In other words, for gaining experience certain marks have been assigned. To that effect the cut-off date has been assigned as 28.02.2019. Further, the last date of submission of application for the post, through online was assigned as 15.04.2019. When things stood thus, Commission issued one notice on 29.08.2019 in which the last date for submission of online application was extended upto 23.09.2019. One more notice was issued on 03.02.2020 while extending the last date of submission of online application from 15.04.2019 to 17.02.2020 (*vide* Annexure-3 to CWJC No. 9817 of 2020). In this notice while extending the last date of submission of online application as upto 17.02.2020.

Further, one more notice was issued on 24.11.2020 while reiterating the last date of submission of online application as 17.02.2020. Hence, the respondents-petitioners filed CWJC No.9817 of 2020 and it was decided on 07.09.2021.

Learned counsel for the appellants submitted that learned Single Judge has committed error in asking the Commission to consider shifting the cut-off date not only for submission of application even to extend benefit of work experience. If such work experience benefit is postponed from 28.02.2019 with reference to advertisement dated 08.03.2019 upto



17.02.2020 in that event appellants right would be affected. In other words, such of those persons who have experienced beyond 28.02.2019 would be beneficial to them and it is disadvantage to the appellants. It is further submitted that Commission on more than one occasion last date of submission of application has been extended. The respondents-petitioners have not assailed the notice dated 29.08.2019 and 03.02.2020 while extending the last date of submission of application as 23.09.2019 and 17.02.2020 respectively. In the absence of challenge to the notice dated 29.08.2019 and 03.02.2020 to the effect that award of marks for the experience was required to be extended during the period from 28.02.2019 to 17.02.2020 the respondents-petitioners are not entitled to relief. They are not entitled to question subsequent notice issued on 24.11.2020 to contend that denial of work experience marks during the intervening period from 28.02.2019 to 17.02.2020 is incorrect.

Per contra, learned counsel for the respondents-petitioners resisted the aforesaid contentions and submitted that there is no infirmity in the order of the learned Single Judge, since there is a discrimination in extending certain benefits. It is submitted that Commission has extended the last date for submission of application. At the same time, there is a denial of



counting experience from 28.02.2019 to 17.02.2020, whereby respondents-petitioners would be denying certain marks for the aforesaid period.

Heard learned counsels for the respective parties.

Question for consideration in the present LPA is whether learned Single Judge has committed error in giving direction to the respondent-Commission as stated (supra) and further whether the petitioners are entitled to have certain benefits of additional marks while counting experience during the period from 28.02.2019 to 17.02.2020 or not?

The appellants submitted that Commission have determined their mind only in extending the last date for submission of online application initially on 29.08.2019, 03.02.2020 and further on 24.11.2020. In the notice dated 24.11.2020 last date of submission of application has been extended upto 17.02.2020.

In the intervening notice dated 29.08.2019 and 03.02.2020 respondent-Commission have not extended time for the purpose of award of marks for experience from 28.02.2019. Therefore, respondents-petitioners have not approached this Court as and when initially last date of submission of application was extended on 29.08.2019 from 15.04.2019 to 23.09.2019 and



further on 03.02.2020 it was extended to 17.02.2020. In other words, they had cause of action on two occasion prior to 24.11.2020. The same has not been appreciated by the learned Single Judge while directing Commission in terms of Para 15 of the learned Single Judge order. In the absence of postponing the cut-off date of experience qualification read with award of marks from 28.02.2019 to 23.09.2019 and 17.02.2020 *vide* notice dated 29.08.2019 and 03.02.2020 respondents-petitioners are not entitled to relief.

Respondents-petitioners have invoked remedy under Article 226 of the Constitution only with reference to notice dated 24.11.2020. Respondents-petitioners are not entitled to relief sought before the learned Single Judge. Learned Single Judge has committed error in the absence of seeking relief with reference to two modified dates namely 29.08.2019 and 03.02.2020 where the last date of submission of application was postponed and respondents-petitioners had cause of action on 29.08.2019 and 03.02.2020. Therefore, there is an error committed by learned Single Judge.

Accordingly, order of learned Single Judge dated 07.09.2021 passed in CWJC No. 9817 of 2020 stands set aside.



With the aforesaid observation the present Letters Patent Appeal No. 568 of 2021 stands disposed of.

CWJC Nos. 2893 of 2020, 3188 of 2021 and 5166 of 2021.

In the view of disposal of aforesaid Letters Patent Appeal No. 568 of 2021, writ petitions, i.e., CWJC Nos. 2893 of 2020, 3188 of 2021 and 5166 of 2021 stands de-linked.

Registry is hereby directed to list these matters before the learned Single Judge (Roster Bench) after de-linking the aforesaid writ petitions.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.12.2022
Transmission Date	N/A

