

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1460 of 2019

In

Civil Writ Jurisdiction Case No.21461 of 2018

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1. Sudhanshu Shekhar, Son of Mahendra Kumar Das, Resident of Village and P.O.- Bhachhi, P.S. and District- Madhubani.
 2. Abid Akhtar, Son of Nayeem Akhtar, Resident of village- Mushkipur, PS- Jamalpur Gogri, District- Khagaria.
 3. Kashi Nath Singh, Son of Kanhaiya Singh, Resident of C-21/65, B-11, Nagar Mahapalika colony, PS- Chetganj, District- Varanasi (U.P).

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, New Secretariat Building, Bailey Road, Patna - 800001.
3. The Principal Secretary, Rural Development Department, Govt. of Bihar, Old Secretariat Building Patna- 800015.
4. The Bihar Public Service Commission, through its Secretary, Bailey Road, Patna.
5. The Chairman, Bihar Public Service Commission, through its Secretary, Bailey Road, Patna.
6. The Joint Secretary - cum- Examination Controller, Bihar Public Service Commission, through its Secretary, Bailey Road, Patna.
7. Abhinaw Anand, Son of Ramanand Singh, Resident of village- sion, PS- Bhabua, District- Kaimur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Dinu Kumar, Advocate Mr. Arvind Kumar Sharma, Advocate Mrs. Ritika Kumari, Advocate
For the Respondent/s	:	Mr. Sanjay Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 27-07-2022

Heard learned counsels for respective parties.



02. The appellants have assailed the order of the learned Single Judge dated 23.09.2019 passed in CWJC No. 21461 of 2018.

03. Appellants are candidates for recruitment to Class-II post (Gazetted Officer) in the State Cadre Service under the State of Bihar with reference to combined competitive examination in respect of 56th to 59th combined competitive examination. The appellants were candidates pursuant to the advertisement issued on 01.09.2014. Finally, results were notified on 18.08.2018 and BPSC has recommended by forwarding selected candidates for process of appointing them to Class-II post.

04. Undisputedly, appellants were not selected and their names were not reflected in the final select list. The appellants noticed that some of the candidates who were selected and appointed have not reported for duty due to various reasons thus number of vacancies have occurred and those vacancies were required to be filled up among the next more merited candidates in the respective category. Thus, a writ petition was filed and it was dismissed on 23.09.2019. Hence, the present LPA.

05. Learned counsel for the appellants vehemently contended that if the appointed candidates failed to report for duty pursuant to their selection and appointment in Class-II gazetted



post in that event vacancies accrued due to non-reporting of selected and appointed candidates were required to be filled up while operating next more merited candidates with reference to the respective categories.

06. In support of the aforesaid contention appellants counsel has not furnished any material information like policy decision of the State that if selected and appointed candidate failed to report for duty that vacancy is required to be filled up by next more merited candidate with reference to the respective category.

07. On the other hand, State Government have evolved a policy in the year 1977 in respect of non-reporting of a selected and appointed candidate vacancy is required to be carried forward to the next recruitment. The same was reiterated while revising the policy on 16.07.2007 also.

08. In the light of these facts and circumstances, the petitioners have not established their statutory right accrued in favour of each of them that due to non-filling up of appointed candidate vacancies, their names to be considered.

09. Hon'ble Apex Court in the case of State of **Rajasthan vs. Kiran Meena and Anr.** reported in **(2018) 12 SCC 503** held that whenever selected candidate does not join, the resultant vacancy shall be treated as fresh vacancy. The law laid



down in the above decision is squarely applicable to the case in hand, therefore, appellants have not made out case.

10. Accordingly, Letters Patent Appeal No. 1460 of 2019 stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Vikash/-

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

