

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6409 of 2023

1. Guriya Kumari D/o Ashok Kumar Singh, Resident of Village-Gangauli, Police Station-Mashrakh, District-Saran at Chapra.
2. Ranjeet Kumar Mishra Son of Bhuneshwar Mishra, Resident of Village-Amwari, Police Station-Madhaura, District-Saran at Chapra.
3. Ajay Kumar Mishra, Son of Late Govind Mishra, Resident of Village-Amwari, Police Station-Madhaura, District-Saran at Chapra.
4. Sunil Kumar Paswan, Son of Jaglal Paswan, Resident of Village-Matkhaui, Police Station-Garkha, District-Saran at Chapra.
5. Awadhesh Ram, Son of Jagarnath Ram, Resident of Village-Barbatpur, Police Station-Garkha, District-Saran at Chapra.
6. Sonu Kumar Ram, Son of Ram Ayodhya Ram, Resident of Village-Shekhupura, Police Station-Revilganj, District-Saran at Chapra.
7. Pooja Kumari, D/o Dhaneshwar Thakur, Resident of Village-Sheikhupura, Police Station-Revilganj, District-Saran at Chapra.
8. Manu Yadav, Son of Faudari Yadav, Resident of Village-Chainpur, Police Station-Manjhi, District-Saran at Chapra.
9. Lalsa Devi, W/o Kashinath Sah, Resident of Village-Sughar Chapra, Police Station-Manjhi, District-Saran at Chapra.
10. Suresh Kumar Manjhi, Son of Parmeshwar Manjhi, Resident of Village-Baniyapur, Police Station-Baniyapur, District-Saran at Chapra.
11. Harekrishna Rai, Son of Fulena Ram, Resident of Village-Baniyapur, Police Station-Baniyapur, District-Saran at Chapra.
12. Anup Kumar Son of Ram Dayal Rai, Resident of Village-Ekma, Police Station-Ekma, District-Saran at Chapra.
13. Sunita Kumari, D/o Madan Pandit, Resident of Village-Ekma, Police Station-Ekma, District-Saran at Chapra.
14. Rani Devi, Wife of Rakesh Kumar Baitha, Resident of Village-Mashrak Takth, Police Station-Mashrak, District-Saran at Chapra.
15. Sangita Devi, Wife of Santosh Kumar Prasad, Resident of Village-Satua, Police Station-Baniyapur, District-Saran at Chapra.
16. Amar Kumar Majhi, Son of Sitaram Manjhi, Resident of Village-Sendura Babu Tola, Police Station-Janta Bazar, District-Saran at Chapra.
17. Shionath Pandey, Son of Murat Pandey, Resident of Village-Dayalpur Police Station-Janta Bazar, District-Saran at Chapra.
18. Manoj Kumar Son of Late Yadu Rai, Resident of Village-Bishunpur, Police Station-Parsa, District-Saran at Chapra.
19. Rambihari Paswan, Son of Rajendra Manjhi, Resident of Village-Mala, Police Station-Gurukul Mohiya, District-Saran at Chapra.
20. Prabhunath Singh, Son of Ambika Singh, Resident of Village-Turki, Police Station-Panapur, District-Saran at Chapra.



21. Ashok Kumar Rai, Son of Sakaldip Rai, Resident of Village-Ami Mathurapur, Police Station-Awatar Nagar, District-Saran at Chapra.
22. Upendra Ram, Son of Sudeshwar Ram, Resident of Village-Dighwara, Police Station-Dighwara, District-Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The District Magistrate, Saran at Chapra.
5. The Deputy Development Commissioner, Saran at Chapra.
6. The Block Education Extension Officer, Marhowrah, Saran at Chapra.
7. The Director State Project, Bihar Education Project Council, Bihar, Patna.
8. The District Superintendent of Education cum-District Programme Convener, Sarva Shiksha Abhiyan, Saran.
9. The District Programme Officer, Sarva Shiksha Abhiyan, Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vipin Kumar Singh, Advocate
For the Respondent/s : Mr. Md. Nadim Seraj (GP 5)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 05-12-2023

1. Heard learned counsel for the parties.

2. Petitioners were appointed on Class-IV post, on contractual basis, as Peon, Assistant Cook, Chief Cook, Night Guard etc in various Kasturba Gandhi Residential Girls Schools in different blocks of Chapra District. They were appointed in the year 2014.

3. Learned counsel for the petitioners submits that the the petitioners have been working for the last ten years, though on contractual basis but the respondents are going to make fresh



appointment on different posts including the post shared by them on contractual basis again for which an advertisement was published by Karyalaya Zila Shiksha Padadhikari vide Advertisement No. 02 of 2022, Saran annexed as Annexure-5 with this writ application. The petitioners have challenged the advertisement, in question, on the ground that they are being discriminated inasmuch as the respondents cannot replace one contractual appointee with another contractual appointee.

4. Learned counsel for the petitioners submits that the similar issue was considered by this Court vide order dated 23.03.2023 passed in C.W.J.C. 6490 of 2018 held in Para 7 and 8 as follows:

“7. Taking into consideration the nature of controversy and the fact that the petitioners are working for the last many years, in my opinion, the interest of justice demands that if the petitioners apply for the appointment pursuant to the fresh advertisement, they shall be given one-time age relaxation, if they are found over-age, subject to fulfilling all other criteria prescribed in the advertisement, in question.

8. In case, the petitioners fulfill the eligibility criteria and apply for the posts advertised and are called for the interview, the Interview Committee shall take into consideration their long experience on the posts while assessing



their suitability.”

5. On the other hand, learned counsel for the Bihar Education Project Council submits that petitioners have not brought their earlier appointment letter. However, the last date for submission of application form, pursuant to Advertisement No. 2 of 2022, annexed as Annexure-5 has come to an end in January, 2023 itself. The petitioners cannot be given opportunity after the last date for making application for the post advertised. At the same time, learned counsel submits that, however, no further action has been taken, till now, regarding appointment on the advertised post.

6. Taking into consideration, the rival submission and the fact that the petitioners have worked for about ten years and this Court, on identical facts, has considered the case of other contractual employees of Kasturba Gandhi Residential Girls Schools in C.W.J.C No. 6490 of 2018, this Court is of the opinion that the petitioners should also be given the opportunity for appointment pursuant to the fresh advertisement after giving one time age relaxation, if they are found over age subject to fulfilling all other prescribed criteria. Since, the petitioners have not submitted their application for appointment , pursuant to the advertisement at Annexure -5, and no further progress has taken



place after the last date of submission of application form by the respondents i.e. after 20.01.2023, as such, I feel it expedient to grant liberty to the petitioners to file a representation before the Director, State Project, Bihar Education Project Council, Bihar (Respondent No.-7) for allowing them to submit their application form for the purpose of consideration of their candidature in the said advertisement.

7. The representation shall be filed within two weeks. The Director may consider the prayer of the petitioners, taking into consideration that they have worked for about 9-10 years and are aspirant of Class-IV post

8. The present writ application is, accordingly, disposed of.

(Anil Kumar Sinha, J)

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