

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21419 of 2011

1. LALBABU SINGH, Son Of Late Vishwa Nath Singh, Resident Of Village - Dara Telpa, Khanua, District - Chapra
2. Deo Kuma Bhatt. Son Of Late Kashi Kuer, Resident Of Village P.O.- Gaudarha, District - Bhojpur At Ara
3. Paras Paswan, Son Of Late Muneshwar Paswan, Resident Of Village P.O. Muraubatpur, District - Vaishali At Hajipur
4. Yogeshwar Paswan, Son Of Late Awadhesh Kumar Singh, Resident Of Village - Mirjapur, P.O. Hasan Nawa, District - Nalanda At Biharshairf
5. Shiv Shankar Chaturvedi, Son Of Late Dharam Deo Chaudhary, Resident Of Village - Samhauta, P.O. Koka Samhi, District - Siwan

.. ... Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Principal Secretary, Rural Development Department, Govt, Of Bihar, Patna
3. The Under Secretary, Rural Development Department, Govt, Of Bihar, Patna
4. The Commissioner, Saran Division, Chapra
5. The District Magistrate, Saran At Chapra
6. The District Rural Development Agency Through The Deputy Development Commissioner, Saran At Chapra
7. The Deputy Development Commissioner, Saran At Chapra

... ... Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh, Advocate
For the Respondent/s : Ms. Kumari Amrita, GP 3

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

C.A.V. JUDGMENT

Date : 04-03-2023

Heard learned counsel for the petitioners and learned
counsel for the State.



2. The writ application has been filed for quashing the order dated 22.07.2011 passed by the District Establishment Committee, Saran at Chapra, presided over by the District Magistrate. Insofar as rejection of the petitioners' claim for regularization is concerned, the petitioners have also prayed for a direction to regularize their services.

3. It is the petitioners' claim in the writ petition that they were appointed on sanctioned and vacant posts of Night Guard and L.D.C. in the District Rural Development Agency, Saran, after following all due procedure of law.

4. They were claiming regularization/absorption of their services in the Establishment of the District Collectorate, as per police decision of the State Government dated 29.08.2003 (Annexure 2 to the writ petition). It is also submitted that other instructions have also been issued regarding regularization and as per the same, the petitioners are entitled to be regularized.

5. Learned counsel for the petitioners also submits that denial of regularization to the petitioners is discriminatory, since others similarly situated as the petitioners, namely one Mahendra Kumar, Gopendra Kumar and Bachan Paswan were regularized by the District Magistrate, Gopalganj.



6. This grievance of the petitioners was considered in *C.W.J.C. No. 14329 of 2009*. The same was disposed of on 12.11.2009, in the following terms:-

"Despite having represented for the same and which papers have been forwarded by the Deputy Development Commissioner, Saran at Chapra to the District Magistrate as far back on 11.3.2008 by Annexure-8, the matter remains pending consideration.

Learned counsel for the State has no objection to the disposal of the writ application for consideration of the case of the petitioners but strictly in accordance with the government policy.

Let the same be done within a maximum period of six months from the date of receipt and/or production of a copy of this order before the concerned Respondents.

If the Respondents propose to hold that the petitioners are not eligible for absorption/regularization in light of the policy decision of the State Government, they shall be required to pass a reasoned and speaking order setting out the grounds item wise with materials in support of the same so that if need of judicial review of the order arises, it shall be facilitated. The writ application stands disposed."

7. The District Establishment Committee thereafter vide impugned order dated 22-07-2011 has not found the petitioners worthy of regularization/absorption.



8. Learned counsel for the State on the other hand submits that the Establishment Committee has duly considered the petitioners claim. The following fatal deficiencies were observed by the District Establishment Committee:-

"(i) It is not at all clear as to what was the prescribed procedure for the original selection by the D.R.D.A. and the five petitioners claim to have been selected in different manners which has not been explained to the District Establishment Committee by either D.R.D.A or petitioners themselves in spite of several reminders to the D.R.D.A..

(ii) There is no evidence that any reservation policy was followed.

(iii) There are different authorities before which the petitioners submitted their applications for first appointment and it is not clear who was the prescribed appointing authority in D.R.D.A..

(iv) Even the appointing authority in respect of the five petitioners is different.

(v) The selection appears to be totally inconsistent with the legal requirements of the openness and transparency. These conclusions were drawn on the basis of materials available before the District Establishment Committee."

9. The stand of the respondents-State counsel is based on averments made in the counter affidavit, copy of which was served on the petitioner's counsel way back on 02.03.2012. There is no rejoinder or reply, denying or disputing the said averments made in the counter affidavit.



10. Learned counsel for the petitioners, however, has vehemently argued that the petitioners fulfill the legal requirements and has alleged discrimination.

11. This Court, on consideration of the rival submissions and on going through the pleadings on record, would find that apart from bald vague assertions, the petitioners have not placed on record any details as to (i) the advertisement in response to which the petitioners applied, (ii) to which Authority they applied for appointment, and (iii) by which Appointing Authority their appointments were done, let alone whether the said authority was a competent authority for appointment, or not.

12. The claim for parity with reference to the three persons namely Mahendra Kumar, Gopendra Kumar and Bachan Paswan, noted above, is also without any basis. The said three persons have not been impleaded as party respondents. There is no material for this Court to arrive at a conclusion that petitioners are similarly situated with the three named persons in terms of the procedure of selection and on other relevant considerations, like the Appointing Authority etc. The claim for parity with the said three persons is clearly unsustainable.



13. The Court, therefore, does not find any reason to interfere with the impugned decision of the Establishment Committee dated 22.07.2011.

14. Writ petition is dismissed.

(Madhuresh Prasad, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	23.02.2023
Uploading Date	04.03.2023
Transmission Date	NA

