

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3123 of 2017

1. Manoj Kumar, Son of Late Shatrudhan Prasad Yadav @ Shatrudhan Yadav, resident of village - Mathahi, Police Station Madhepura, District - Madhepura, Presently Posted On Class - IV Post in the Sub - Divisional Office, Uda - Kishunganj, in the District of Madhepura
2. Praveen Kumar Rajan, Son of Late Kailash Prasad Gupta, resident of Chousa, Police Station Chousa, District - Madhepura, Presently Posted on Class - IV Post in the Anchal Office, Ghailarh in the district of Madhepura
3. Kameshwar Yadav, Son of Late Baldeo Prasad Yadav, resident of Itahari, Police Station Ghailarh, District - Madhepura, Presently Posted On Class - IV Post in the Anchal office, Ghailarh in District of Madhepura

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna
3. The Special Secretary, General Administration Department, Government of Bihar, Patna
4. The Additional Secretary, General Administration Department, Government of Bihar, Patna
5. The Principal Secretary, Department of Finance, Government of Bihar, Patna
6. The Joint Secretary, Department of Finance, Government of Bihar, Patna
7. The Divisional Commissioner, Kosi Division, Saharsa
8. The District Magistrate - Cum - Chairman, Departmental Promotion Committee, Madhepura
9. The Additional Collector, Madhepura
10. The District Establishment Deputy Collector, Madhepura

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ranjit Kumar Singh, Advocate
For the Respondent/s : Mr.Md. Nadeem Seraj, GP-5
Mr. Shailesh Kumar, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 28-04-2023 Heard learned counsel for the petitioners and Mr. Md.
Nadim Seraj, learned GP-5 for the State.

Petitioners in the present case are seeking the



following reliefs:-

“(1) That by the present writ petition, the petitioners hereof crave indulgence of this Hon’ble Court for issuance of an appropriate writ/writs, order/orders, direction/directions, rule or command, especially in the nature of MANDAMUS, commanding and directing the respondents to take appropriate steps/measures in terms of Rule-8 as laid down in the Bihar Collectorate Clerical Cadre (Recruitment and Conditions of Service) Rules, 2011 as contained in Annexure-1, that the petitioners may not further suffer due to the callousness of the respondents as almost six years had already been elapsed due to snail’s pace on the part of the Respondent Nos.-8 to 10 to act upon as the said rule had been notified on 23.03.2011 as contained in Annexure-P/1 which had not yet been carried out in the district of Madhepura and/or any other relief(s) to which the petitioners may be found entitled thereto as this Hon’ble Court may deem just and proper under the backdrop of the facts and circumstances of the present case.”

It is the case of the petitioners that they possess the minimum educational qualification for purpose of promotion to Group-C post but despite there being Rule as contained in Notification No.821 dated 23rd March, 2011 (Annexure- ‘P/1’), the respondents are not considering the case of the petitioners for promotion. Learned counsel submits that as per the Rule,



85% of the posts of Lower Division Clerk are to be filled up through direct recruitment whereas 15% posts are to be filled up from amongst the eligible matriculate Group-D employees.

Learned counsel submits that even though the Rule has been in existence since the year 2011 but it has not been given effect to. It is for this reason that in CWJC No.63 of 2020 (Archana Bharti Vs. The State of Bihar and Ors.), a learned coordinate Bench of this Court has directed the respondents to initiate the process for promotion of the employees working against Class-IV post to Class-III post in accordance with the provisions under Rule 8 of the Rules in the district within a period of one month. It is submitted that the said direction was issued by this Court on 24.01.2020.

On the other hand, learned counsel for the State has opposed this writ application. A counter affidavit has been filed. It is stated that the petitioner nos. 1 and 2 did not qualify in the computer proficiency and typing test as a result whereof they could not be promoted. So far as petitioner no.3 is concerned, he is not a confirmed employee in Group-D. Learned counsel further submits that on perusal of the Rules, it would appear that under Rule 6 the minimum educational qualification is matriculation or equivalent thereto with knowledge of computer



typing and operation.

Referring to the minutes of the proceeding which are Annexure- 'B/1' to the counter affidavit, learned counsel submits that it is not true that no step has been taken for promotion from Group-D to Group-C posts. There is a specific stipulation in Annexure- 'B/1' that petitioner nos.1 and 2 could not be promoted because they have not passed the computer operation and typing test.

Consideration

Having heard learned counsel for the petitioners and the State, this Court finds that under the Rule, which has got the force of law, the eligibility for promotion from Class-IV post to Class-III post has been provided. Rule 6 specifically states that a candidate should have knowledge of computer operation and typing. In this case, the records enclosed with the counter affidavit would show that the process for promotion from Class-IV post to Class-III post was taken up in which the petitioner nos.1 and 2 were considered but then upon finding that they were not having any knowledge of computer, they were not given the promotion.

In the circumstances, this Court finds no error with the decision of the respondent authorities and to that extent it is



dismissed.

Learned counsel for the petitioners has, at this stage, stated that by fresh notification the requirement of computer knowledge and operation has been dispensed with. If it is so, the petitioner nos. 1 and 2 may file a representation before the competent authority who will consider the same and take an appropriate decision thereon within a period of two months from the date of receipt/production of a copy of this order.

(Rajeev Ranjan Prasad, J)

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