

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.248 of 2019

In
Letters Patent Appeal No.622 of 2018

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1. The Bihar State Power Holding Company Ltd., through its Chairman Cum Managing Director, having office at Vidyut Bhawan, Bailey Road, Patna.
 2. The Chairman-cum-Managing Director, Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
 3. The Deputy General Manager, (Human Resources and Administration), Bihar State Power Holding Company Ltd. Vidyut Bhawan, Bailey Road, Patna.

... .. Petitioner/s

Versus

1. Harihardatt Vatsa Kumar Pankaj Son of Sahu Staram Pankaj Resident of Village- Nawadakalan, Police Station Ganga Bridge, District- Vaishali.
2. Ramkrit Sah, Son of Ramsajiban Sah Resident of Village- Rampura, Police Station- Singhwara, District- Darbhanga.
3. Md. Shahzad Salim Azmi, Son of Late Salim Ahamd Resident of Village- Imampur, Near Sr. Academy, Police Station - Habibpur, District - Bhagalpur.
4. Utsav Kumar, Son of Birendra Kumar Singh Resident of Magadh Electric, Gur Ki Mandi, Shershah Road, Police Station - Alamganj, District - Patna.
5. Nitesh Kumar, Son of Ram Bilash Pandit Resident of Mohalla- Teachers Colony, Mirzanhatt, Jagdishpur, Police Station- Mirzanhatt, District- Bhagalpur.
6. Birendra Kumar, Son of Diwakar Prasad Gupta Resident of Village - Nayagaon, Police Staton- Aurai, District- Muzaffarpur.
7. Pancham Kumar Singh, Son of Mangal Kishore Singh Resident of Village - Hemja, Police Station - Haidarnagar, District - Palamu, Jharkhand.
8. Surendra Kumar Singh, Son of Yamuna Prasad Singh Resident of Village - Katahan, Police Station - Mehsi, District - East Champaran.
9. Krishna Kumar, Son of Ramashrey Prasad Resident of Village - Abdulpur, Police Station - Fatuha, District - Patna.
10. Rajesh Kumar Mahto, Son of Dinesh Mahto Resident of Mohalla - Laxmisagar, Saidpur DAV Road, Police Station - L.N.M.U., Darbhanga, District - Darbhanga.
11. Ravikant Kumar, Son of Vimal Prasad C/o Dinanath Prasad, Resident of Road No. - 2, Near Boys Middle School, Police Station - Gidhaour, District - Jamui.
12. Jitendra Kumar, Son of Shahsi Bhushan Singh Resident of Village - Sambey, Police Station - Warsaliganj, District - Nawada.
13. Prem Kumar, Son of Ramashish Prasad Resident of Mohalla - Tarchha, Police Station - Sheikhpura, District - Sheikhpura.
14. Rakesh Kumar, Son of Late Aditya Sahu Resident of House No. 138,



Kumhrar Toli, Melatar, Police Station - Khunti, District - Khunti, Jharkhand.

15. Mrinalini Bhaskar, Son of Late Shiv Narayan Tanti Resident of Village - Rahmatpur, Dhangola Asarganj, Police Station - Asarganj, District - Munger.
16. Dheeraj Kumar, Son of Gaya Prasad Singh Resident of Mohalla - Indira Nagar, Road No. - 1, Postal Park, Police Station - Jakkanpur, District - Patna.
17. Rakesh Kumar, Son of Nagendra Prasad Resident of Village- Banchauri Dholi, Police Station- Dumra, District- Sitamarhi.
18. Saroj Kumar Yadav, Son of Gopal Krishna Yadav Resident of Village- Bharauli, Police Station- Shahpur, District- Bhojpur.

... .. Opposite Party/s

with
CIVIL REVIEW No. 250 of 2019
In
Letters Patent Appeal No.582 of 2018

1. The Chairman-Cum-Managing Director, Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna Successor of the Erstwhile Bihar State Electricity Board, Patna.
2. The Secretary, Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna, Successor of the Erstwhile Bihar State Electricity Board, Patna.
3. The General Manager, (Human Resources and Administration), Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna, Successor of the Erstwhile Bihar State Electricity Board, Patna.
4. The Deputy General Manager, (Human Resources and Administration), Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna, Successor of the Erstwhile Bihar State Electricity Board, Patna.
5. The Officer on Special Duty, (Human Resources and Administration), Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna, Successor of the Erstwhile Bihar State Electricity Board, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Energy Department, Govt. of Bihar, Patna.
3. Devashish Thakur, S/o Awadhesh Thakur, Resident of Mohalla- Chunabhathi, Near Mithu Mandir Chowk, S. University Campus, District- Darbhanga.

... .. Opposite Party/s

Appearance :

(In CIVIL REVIEW No. 248 of 2019)

For the Petitioner/s : Mr. Anand Kumar Ojha, Advocate



For the Opposite Party/s : Mr. Bindhyachal Singh, Sr. Advocate
Miss Nikita Mittal, Advocate
Mr. Ravi Ranjan, Advocate
Mrs. Smriti Singh, Advocate

(In CIVIL REVIEW No. 250 of 2019)

For the Petitioner/s : Mr. Anand Kumar Ojha, Advocate

For the Opposite Party/s : Mr. Ratanakar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 18-08-2023

Heard learned counsels for the parties.

2. The present Civil Review is filed for recalling the order dated 20th June, 2019 passed in L.P.A. No. 622 of 2018.

3. Gist of the matter is that respondents were candidates for recruitment to the post of Junior Accounts Clerk. Petitioners advertised for 339 posts and 481 candidates were in the merit list. About 137 candidates did not join the service. In this backdrop, question arose whether lower merited candidates, like respondents are entitled to have a right to seek appointment against such of those non-joining vacancies or not? This was subject-matter of litigation in C.W.J.C. No. 6902 of 2015 and it was disposed of on 16.09.2015. Consequently, respondents submitted representation and it was rejected by the Chairman of the petitioner-company on 15.02.2016. Feeling aggrieved by the decision of the Chairman, respondents filed C.W.J.C. No.



7113 of 2016 and 5041 of 2016 which were disposed of on 23.08.2017 and 26.03.2018 respectively. Petitioners who were aggrieved by the order of the learned Single Judge preferred L.P.A. No. 582 of 2018 and 622 of 2018. This Court passed a common order dated 20th June, 2019. Feeling aggrieved by the order of the Co-ordinate Bench dated 20th June, 2019, the present Civil Review No. 248 of 2019 is presented.

4. Learned counsel for the Civil Review petitioner submitted that there is no infirmity in the decision of the Chairman dated 15.02.2016. This Court has taken note of certain factual aspects of the matter in respect of selection and appointment to the post of Assistant Operator and IT Manager, wherein Chairman has taken a different standard insofar as non filling up or non-joining of those candidates. Further list has been operated while considering next merited candidates. But the same yardstick has not been taken into consideration in respect of the post of Junior Accounts Clerk. It is submitted that it is a policy decision of the Petitioner-Company insofar as filling up of any of the post. However, there cannot be discrimination among two sets of posts insofar as non-joining posts were required to be filled up or not? These issues cannot be adjudicated in the review petition. The scope of review



petition is limited to the extent that what is error apparent on the face of the record. The above issue is not error apparent on the face of the record. The Co-ordinate Bench has expressed its opinion that there is a discrimination in respect of two sets of posts and policy of the Chairman of the Petitioner-Company.

5. Apex Court recently in the case of ***S. Murali Sundaram Vs. Jothibai Kannan & Others*** reported in ***2023 SCC Online SC 185*** elaborately discussed under what circumstances review petition could be entertained with reference to Order 47 Rule 1 read with Section 114 of the CPC. Taking note of the judicial pronouncement, the present review petition is not a fit case so as to entertain Civil Review Petition.

6. Accordingly, the present Civil Review Petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.08.2023
Transmission Date	N.A.

