

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4565 of 2021

Vinod Kumar Tiwary Son of Hareshwar Nath Tiwary Resident of Village-
Mubarakpur, P.O.- Chainpur, P.S.- Siswan, District- Siwan (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Education Department, Government of Bihar Patna
3. The Director (Administration)-cum-Additional Secretary, Education Department, Govt. of Bihar Patna
4. The Bihar Public Service Commission 15, Jawahar Lal Nehru Marg (Bailey Road), Patna through the Secretary
5. The Chairman, The Bihar Public Service Commission 15, Jawahar Lal Nehru Marg (Bailey Road), Patna
6. The Secretary, The Bihar Public Service Commission 15, Jawahar Lal Nehru Marg, (Bailey Road), Patna
7. The Joint Secretary-cum-Examination Controller, The Bihar Public Service Commission 15, Jawahar Lal Nehru Marg (Bailey Road), Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Singh, Adv.
For the BPSC	:	Mr. Kaushal Kumar Jha, Sr. Adv., C.G.C., Mr. Amish Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

10 26-11-2024 The petitioner was a candidate for the post of Lecturer. The vacancy notification of which was published in the year 2016. It is not in dispute that the petitioner was successful in the examination as well as the Interview and his name appeared in the common selection list as Unreserved category candidate.

2. It is the case of the petitioner that though he was selected as Unreserved category candidate, he was not offered



with appointment letter in spite of the fact that as per State Government's counter affidavit, there are still 04 vacancies in the subject of Mathematics and he may be accommodated in the said vacancy.

3. On such factual assertion, the petitioner has filed the instant writ petition with the following relief:-

“1. (I) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities to select and appoint the petitioner as a Lecturer in the subject of Mathematics under unreserved category pursuant to the Advertisement No.02 of 2016 against the vacant advertised post inter alia on the ground that in the combined merit list-common group in the subject of mathematics, the name of the petitioner was appearing at serial no.22 and the person under the unreserved category male till serial no.18 and female till serial no.39 had already been selected and appointed but the person namely Manish Kumar Gautam and Ramesh Chandra Yadav whose name was appearing at serial no.02 and 16 of the merit list did not turn up for counseling for the purposes of their selection/appointment as a result of



which two posts of unreserved category of male became vacant and the petitioner is the next left out candidate for his selection under unreserved category.

(II) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

4. It is contended on behalf of the State respondents that the process of recruitment in respect of the above mentioned vacancies of 2016 was already concluded by the State Government and as per the existing Rule the vacant posts revert back to the pool of vacant post under the principle of carry forward and no one can claim appointment in respect of the posts, which are not filled up during the selection process.

5. In the instant case, the said 04 vacant posts in which the petitioner is claiming to be absorbed carried forward to the next vacancy. Therefore, the petitioner is not entitled for appointment.

6. In reply thereto, it is submitted by the learned Advocate for the petitioner that contention of the State respondent is absolutely wrong because one of such vacant post



has been filled up in the year 2023 also.

7. Having heard the learned counsels for the parties and on careful perusal of the entire materials on record, the instant writ petition is disposed of directing the State respondents to consider the case of the petitioner and if the vacant post are not carried forward to the next year's vacancy, then the respondents are at liberty to consider the case of the petitioner following the principles of natural justice. Such decision shall be taken by the respondents within three months from the date of this order.

8. With the above direction, the instant writ petition is disposed of on contest.

9. However, there shall be no order as to costs.

(Bibek Chaudhuri, J)

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