

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3184 of 2020

Dr. Sudhakar Thakur son of Dinanath Thakur, resident of village- Lahsanganj,
P.S.- Simraha (Farbisganj), District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The Principal Secretary, Animal and Fishery Resources Department, Govt. of Bihar, Patna.
5. The Secretary, Animal and Fisheries Resources, Department, Government of Bihar, Patna.
6. The Deputy Secretary of Govt. Animal and Fishery Resources Department Govt. of Bihar, Patna.
7. The Director, Animal and Fishery Resources Department.
8. The Bihar Public Service Commission, through its Chairman, Bailey Road, Patna.
9. The Chairman of the Bihar Public Service Commission, Bailey Road, Patna.
10. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.
11. The Joint Secretary-Cum- Examination Controller, Bihar Public Service Commission, Bailey Road, Patna.
12. Dr. Raut Kavita Anil, daughter of Raut Anil Hiranman, wife of Dr. Prem Shankar, presently residing at A-361, A.G. colony, P.O.- Ashiyananagar, P.s.- Shastri Nagar, District- Patna, PIN- 800023. Presently posted as Assistant Research Officer at Animal health and Production Institution, Patna.
13. Dr. Mohini Manohar Dhobal, daughter of Manohar Narayan Rao, wife of Dr. Rajesh Kumar, resident of C/O- Sri Anirudh Marik, P.O.- and P.S.- Beur, District- Patna, PIN- 800002. Presently posted as Mobile Veterinary Officer, Parsa Virbal, Sapaul.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Niranjana Kumar , Advocate
For the Respondent/s	:	Mr. Navnit Kumar, AC to GP-18
For the BPSC	:	Mr. Sanjay Pandey, Advocate
		Mr. Nishant Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

10 25-11-2024

Heard Mr. Niranjana Kumar, learned counsel for the



petitioner, Mr. Nishant Kumar Jha, learned counsel representing the B.P.S.C. and Mr. Navneet Kumar appearing on behalf of the State.

2. The petitioner is aggrieved by the order dated 05.11.2019 issued under the Signature of the Under Secretary of the Government, Animal and Fisheries Resources Department, Government of Bihar, Patna whereby, the representation dated 16.08.2019 filed by the petitioner in pursuant to the order of this Court dated 06.08.2019 in ***CWJC No. 15496 of 2019*** came to be rejected.

3. Learned Advocate for the petitioner while assailing the order aforementioned, submitted that the impugned order is wholly mechanical, without taking into consideration the order of this Court in ***CWJC No. 15496 of 2019***, wherein, the learned Court, on consideration of the various aspects, including the fact that some of the appointees have chosen not to join such posts and many posts otherwise also have remained vacant, accorded liberty to the petitioner to approach before the concerned respondent along with a representation and further directed the Principal Secretary of the Government, Animal and Fishery Resources Department, Govt. of Bihar, Patna to consider the same.



4. Narrating the facts of the case , learned Advocate for the petitioner contended that an advertisement was published vide Advertisement No. 01 of 2017 for the post of 903 Mobile Veterinary Officers in the Animal and Fishery Resources Department, Government of Bihar, Patna by the Bihar Public Service Commission. In pursuant to the advertisement, the petitioner and others submitted their application. A total number of 945 candidates have applied for the said posts, out of which only 896 candidates appeared before the Authority in the counseling and thereupon a combined merit list was published by the Commission. The name of the petitioner was placed at Serial No. 295, who obtained 65.500 marks under the General Category (male). It is made clear that the cut-off marks for General Category male was 65.825. The petitioner was just below the last selected candidate.

5. Learned Advocate for the petitioner next contended that despite the fact that some of the successful candidates did not join their respective place of posting, and thus the various seats remained vacant can be adjusted and the petitioner may be appointed against the vacant post, but the same has not been done. On being aggrieved by the inaction of the respondents, the petitioner approached before this court in ***CWJC No. 15496 of***



2019.

6. The learned Court having taking note of the submissions and the decisions cited by the learned Advocate for the petitioner in the case of *Neeraj Kumar Singh & Anr. Vs the State of Bihar & Ors.*, reported in **2007 (3) PLJR 702** as also the decision of the learned Division Bench of this Court in case of *Subodh Kumar Vs. State of Bihar & Ors.*, reported in **2012 (2) PLJR 647**, directed the petitioner to approach before the concerned respondent to consider the claim of the petitioner.

7. In pursuant to the order afore-noted, the petitioner approached before the concerned respondent by filing a proper representation. However, the same came to be rejected vide order dated 05.01.2019 which is put to challenge in the present writ petition.

8. Learned counsel for the Bihar Public Service Commission, by referring to the averments made in the counter affidavit has submitted that the petitioner admittedly belongs to the Un-reserved category (male). The facts are admitted that the petitioner secured 295th position in the merit list with 65.500 marks. The Commission has already declared the result under the Advertisement no. 01 of 2017 on 22.12.2018. Out of total 903 vacancy under the advertisement, 581 candidates were



declared successful, 140 post of Scheduled Caste, 136 post of Extremely Backward Class and 46 posts of Backward Class (female) category remained vacant on account of non-availability of suitable candidates. It is further contended that so far as the un-reserved (male) category candidates are concerned all the 357 posts have already been filled up. So far as the vacant post due to non joining of the candidates of other categories are concerned, the same has already been forwarded for the next selection process in terms of Memo No. 2374 dated 16.07.2007 of the Personnel and Administrative Department, Government of Bihar. The copies of the final result as well as the circular dated 16.07.2007 have been brought on record as Annexure-C and D to the counter affidavit filed on behalf of the respondent nos. 8 to 11.

9. Reliance has also been placed on the decisions of this Court in the case of *Sweta Kumari Vs. State of Bihar* in *CWJC No. 10217 of 2021* and further in the case of *Sudhanshu Shekhar and Ors. Vs. State of Bihar* disposed of on 23.03.2019 vide *CWJC No. 21461 of 2018*, wherein identical issue was under consideration and the learned Court having found no merit in the writ petition, dismissed the same. The copies of the rulings have been placed on record and marked as Annexure-E series



and F.

10. The petitioner has also challenged the selection process by raising certain irregularities. Suffice it to observe that these points are not available to the petitioner once he has taken a calculated chance and participated in the selection process and now, he cannot be allowed to turn around and challenge the same.

11. So far as the contention of the petitioner that he being the last successful candidate may be accommodated against the remaining vacant post is concerned, this Court does not find any merit in view of the settled legal position as also on account of the fact that altogether 357 posts of the General Category candidates have already been filled up. Moreover, the remaining post of the different categories have been forwarded to the Technical Service Commission to be included in different appointments process.

12. This Court does not find any merit in the writ petition. Accordingly, the writ petition stands dismissed.

(Harish Kumar, J)

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