

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3302 of 2020

1. Rajiv Kumar S/o Late Shivpukar Singh, R/o Mohalla Lakhibagh (Jayamati Bhawan), near Bulla Shahid, P.O. Buniyadganj, District- Gaya.
2. Prem Shankar, S/o Dinesh Sharma, R/o Village- Dundichak, P.O. Sirh, P.S. Atri, District- Gaya.
3. Hari Shankar Singh, S/o Ranjeet Singh @ Ranjit Singh, R/o Village and P.O. Gaurichak, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Government of Bihar.
2. The Director General of Police, Government of Bihar, Old Secretariat Patna, Patna- 800001 (Bihar).
3. The Chairman, Bihar Staff Selection Commission, P.O.- Veterinary College, Bailey Road, Patna, Patna- 800014 (Bihar).
4. The Secretary, Bihar Staff Selection Commission, P.O. Veterinary College, Bailey Road, Patna, Patna- 800014 (Bihar).
5. Md. Nasim, S/o Md. Abu Zafar Ansari, R/o Village- Goraul, P.S. Croraul, District- Vaishali, Bihar.
6. Umesh Kumar Roy, S/o Ram Briksh Roy, R/o Vill.- TawanMangarpal, Via- Sonepur, P.S. Dariyapur, District- Saran, Bihar.
7. Ravi Prakash S/o Birendra Kumar Singh, R/o Near Chandmari, Motihari, District- East Champaran, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar @ Alok Kr Shahi, Adv.
For the Respondent/s	:	Mr. Md. Nadim Seraj, GP 5
For the BSSC	:	Mr. Satyabir Bharti with Ms. Kanupriya and Mr. Abhishek Anand, Advocates

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 02-12-2024

Heard learned Advocate for the petitioners and the
learned Advocate for the Bihar Staff Selection Commission.
Learned Advocate for the State is also present.



2. The three petitioners, who were aspirants for the post of Sub-Inspector in terms of Advertisement No. 704/2004 issued by the Bihar Staff Selection Commission, have preferred the present writ petition seeking a direction upon the concerned respondents for issuance of appointment letter in favour of the writ petitioners in the light of the orders dated 14.09.2017 passed by the Hon'ble Apex Court in Civil Appeal No(S). 2795-2797/2017 with Civil Appeal No(S). 2798-2800/2017 as also the order dated 24.10.2018 passed by the Hon'ble Supreme Court in Contempt Petition(C) No. 1711/2018 arising out of Contempt Petition (C) No. 14-18/2018. The petitioners have also prayed for quashing of the letter of the Secretary, Bihar Staff Selection Commission bearing No. 3031A dated 25.10.2018, whereby the petitioners have been declared disqualified contrary to the order passed by the Hon'ble Apex Court.

3. This case has a long history of litigation between the petitioners and the respondents since the date of issuance of Advertisement No. 704 of 2004, whereby the applications were invited for the post of 1510 Sub-Inspectors, based upon the commencement of physical test to written test and then medical test. The written test comprised of General Knowledge and two optional papers based on objective questions. After physical and



written test, recommendations have been made in favour of the successful candidates by the Commission for their appointment. After publication of the final result, a series of writ petitions were filed, resultantly, the Government has taken a decision to enhance the vacant post from time to time. The matter has travelled up to the Hon'ble Supreme Court in SLP No. 1240-1244 of 2011 and in compliance with the order of the Hon'ble Supreme Court in the afore-noted SLPs, the Commission published an advertisement bearing No. 511 for appointment to 299 vacant posts. Against the Advertisement No. 511, only 93 applicants were declared successful against 299 posts. The Commission recommended their names vide Memo No. 2469/Aa dated 01.09.2017 to the office of the Inspector General.

4. After various rounds of litigation, the petitioners and various other candidates have filed bunch of SLPs in the interregnum period before this Court to the Hon'ble Supreme Court. The Hon'ble Supreme Court while hearing the matter in Civil Appeal No. 2795-2797 of 2017, titled as Chandra Gupta Kumar & Ors. vs. The State of Bihar & Ors., vide order dated 14.09.2017 taking note of the fact that out of 3227 candidates recommended, 2192 candidates turned up for selection and out of whom 232 were declared qualified. In the subsequent process



of selection, 97 candidates have been selected, who have been permitted to be appointed. Thus, the Hon'ble Court, in view of the fact that there are 200 plus vacancies available and in order to give quietus to the whole dispute and having regard to the fact that the process of selection started in the year 2004, directed remaining 1035 recommended candidates to be subjected to physical test, who did not turn up for selection, and also to the process of selection. On being found non compliance of the order, a Contempt Petition (C) No. 1711 of 2018 has been filed and thus the Hon'ble Supreme Court vide order dated 24.10.2018 directed for appointment of only 133 applicants to the post of Sub-Inspector of Police. The operative part of the said order is as follows:

“...This Court having carved out and classified 133 candidates into a specific category and placed them along with 186 candidates, there cannot be any other procedure than the medical examination. Therefore, to remove any doubt on this aspect, we make it clear that the only remaining process to be undergone by the 133 candidates is the process to which the 186 candidates were subjected to. The State and the Selection Commission are directed to complete the process positively on or before 01.11.2018 and issue the appointment orders subject, of



course, to candidates passing the medical fitness test. We make it clear that this order and all the earlier orders regarding appointment of the 133 candidates are passed in the peculiar background of the litigation starting from the advertisement in the year 2004 and several rounds of litigations during the past fourteen years, in exercise of our jurisdiction under Article 142 of the Constitution of India and the same shall not be treated as a precedent."

5. It would be worth noticing here that the Hon'ble Supreme Court was also pleased to pass an order while hearing the Interlocutory Applications of other claimants in the afore noted cases. Vide order dated 01.11.2018 the Hon'ble Supreme Court ruled that:

"the applicants are free to make representations appealing to the good conscience to the State of Bihar. The State of Bihar is free to consider the same and pass appropriate orders in accordance with law. In case such representations are made by the intervenors/applicants within one month from today, appropriate orders may be passed by the State on those representations within three months thereafter. However, we make it clear that even if their representations are rejected, it will not give rise to any proceedings/appeal in any of the courts."



6. Suffice it to observe that all the three petitioners were amongst the 136 applicants before the Hon'ble Supreme Court of India in Civil Appeal No. 2807/2017 and, as such, in pursuant to the order of the Hon'ble Supreme Court, they preferred representation before the competent authority. However, it came to be rejected vide Memo No. 504 dated 18.02.2020. It is also to be noted that in compliance of the order of the Hon'ble Court and the direction of the Government, the recommendation of the successful candidates were sought from the Bihar Staff Selection Commission. Pursuant to the direction, the Commission sent the documents and list of 133 applicants vide Letter No. 3031/AA dated 25.10.2018 with a categorical assertion that the name of the petitioners were excluded since the petitioners were declared disqualified in the written examination. It was made clear that Advertisement No. 704 was advertised in the light of the provision contained in Memo No. 9863 dated 11.09.2004. The minimum qualifying marks in the compulsory paper were well defined in the said notification. Since the present petitioners had failed to score the minimum qualifying marks in the written examination, therefore the petitioners are not found fit for appointment to the post of Sub-Inspector of Police.



7. The petitioners being aggrieved preferred a contempt application bearing Contempt Petition (C) No. 816/2019 before the Hon'ble Supreme Court which came to be consigned by order dated 19.09.2019 with an observation that if the petitioners have any grievance regarding the said communication dated 24.10.2018 and the averments made in the counter affidavit, it is open for the petitioners to challenge the same and to work out their remedy in accordance with law. The Hon'ble Apex Court made it clear that no disobedience muchless wilful disobedience of the order of the Court dated 08.05.2018 is found to initiate contempt.

8. Learned Advocate for the petitioners while questioning the action of the concerned respondents as well as assailing the impugned letter No. 3031Aa dated 25.10.2018 primarily contended that disqualifying the petitioners on the basis of merit is contrary to the orders passed by the Hon'ble Apex Court as what is required is only physical test and any disqualification on the basis of merit *per se* is illegal. Various orders of this Court as well as the orders passed by the Hon'ble Apex Court have been read over before this Court in order to substantiate the claim of the petitioners. It is further contended that the averments made in the counter affidavit of the



respondent nos. 2 and 3 dated 29.08.2019 as well as 06.09.2019 in the Contempt Petition(C) No. of 816/2019 and other matters are contrary to the reply filed by the respondents in Contempt Petition(C) No. 14-18 of 2018 and other analogous cases. Hence, letter dated 25.10.2019 is contrary to the facts stated in the aforesaid reply.

9. Mr. Satyabir Bharti, learned Advocate for the Bihar Staff Selection Commission while refuting the contention of the learned Advocate for the petitioners submitted that admittedly the petitioners had failed to score the qualifying marks in the written examination and as such their claims for appointment were found out of consideration zone; hence their candidature could not be considered for appointment to the post of Sub-Inspector of Police. It is also contended by the learned Advocate that the contempt petition preferred by the petitioners came to be consigned on being found no wilful defiance on the part of the concerned respondents. Drawing the attention of this Court to the order of the Hon'ble Apex Court in the case of ***Arvind Kumar & Ors vs. The State of Bihar and Ors*** in Civil Appeal No. 1240-1241 of 2011, it is contended that it was specifically mandated that uniform standard would be made applicable to all the candidates and all the candidates appearing for the above



posts will have to undergo similar physical and written examination. Since the petitioners failed to qualify the written examination, their cases have rightly not been considered.

10. Learned Advocate for the Commission has further urged that apart from the fact that the process of selection was commenced way back in the year 2004, the candidates, on the pretext of one reason or the other, have been litigating since long. In a similar matter, a coordinate Bench of this Court vide order dated 08.11.2019 in CWJC No. 14086 of 2019 dismissed the writ petition by observing that *“No matter arising out of the said advertisement can be entertained by this Court now 14 years after initiation of the process of selection in the light of the Hon’ble Supreme Court’s order dated 01.11.2018 passed in Contempt Petition(C) No. 1711/2018 as well as in Contempt Petition (C) No. 22/2018 in CA No. 2805 of 2017”*.

11. Having heard the learned Advocate for the respective parties and on perusal of various orders passed by the Hon’ble Supreme Court as well as this Court, it would be evident that the petitioners were the candidates in connection with the advertisement of the year 2004. Several rounds of litigation have taken place and now there must be a quietus to all the litigations as the selection process for the advertisement



of the year 2004 have been completed a long time ago. The Hon'ble Apex Court in clear terms had observed in Contempt Petition(C) No. 1711/2018 in relation to appointment of 133 candidates to the post of Sub-Inspector of Police that the applicants are free to make representations appealing to the good conscience to the State of Bihar. However, in case, such representations are rejected, it will not give rise to any proceedings/appeal in any of the courts. The claim of the petitioners were duly considered by the competent authority and it has been found that their cases do not fall within the zone of consideration for appointment to the post of Sub-Inspector of Police, as they failed to qualify the written examination.

12. In various other similar matters, still some of the candidates have approached this Court for their appointment against the advertisement of the year 2004. The co-ordinate Bench considering the fact, since the issue now stands closed and the selection process having been completed long time back did not entertain such petition and dismissed the matter. In one of the said matters, the petitioners also approached before the Division Bench in LPA No. 755 of 2019 which also came to be dismissed vide order dated 17.07.2019.

13. In view of the observations of the Hon'ble



Supreme Court as well as the discussions made hereinabove,
this Court does not find any merit warranting any interference in
the writ petition, accordingly, the same stands dismissed.

(Harish Kumar, J)

Anjani/-

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CAV DATE	
Uploading Date	18.12.2024
Transmission Date	

