

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3175 of 2022

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1. Krishna Kumar, Son of Ram Dhani Ravidas, Resident of Mohalla-Rai Jai Krishna Road, Gurhatta, Patna City, P.S.-Khajekala Patna City, P.S.-Khajekala, Patna City, District-Patna.
 2. Raja Kumar, Son of Dina Nath Das Resident of Mohalla- Mogulpura Durukhi Patn City, P.S.-Khajekala, District-Patna.
 3. Praveen Kumar, Son of Late Basant Singh Resident of Mohalla- Rai Jai Krishna Road, Gurhatta, Patna City, P.S.-Khajekala, Patna City, District-Patna.
 4. Sanjeev Kumar, Son of Rajendra Ram Resident of Mohalla-Rai Jai Krishna Road, Gurhatta, Patna City, P.S.-Khajekala, Patna City, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The Under Secretary, General Administration Department Government of Bihar, Patna.
4. The Deputy Development Commissioner, Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Shakir Ahmad
For the Respondent/s : Mr. Sheo Shankar Prasad (SC8)

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 30-08-2024 1. The petitioners have filed the instant writ petition
for the following reliefs:

1. For issuance of appropriate writ/writs, order/orders, direction/directions commanding the respondent authorities especially respondent no. 4 to recommend the name of petitioners whose name have already been shortlisted pursuant to advertisement contained in memo no. 490, Establishment



dated 19.10.2012 issued under the signature of respondent no. 4 for appointment on Class-IV post in different office situated in the District of Jamui and in said merit-list / panel, name of petitioner no. 1 finds place at Sr. No. 1752, name of petitioner no. 2 at Sr. No. 2216, name of petitioner no. 3 at 3140 and name of petitioner no. 4 at Sr. No. 3178, though panel/final merit-list was uploaded on the website of Jamui Collecteriate but till date name of petitioners have not been recommended.

(ii) For issuance of any other relief/reliefs for which petitioners are found entitled in the eye of law and in the facts and circumstances of the present case.

2. The case of the petitioners is that on the basis of an advertisement published in the year 2012, the petitioners took part in the recruitment process for the post of Group-D services for the different districts in the State of Bihar under the provisions of Bihar Class-IV (Appointment and Service Conditions) Rules, 2010. The said advertisement was published *vide* Memo No. 490 EST, dated 19th of October, 2012. The petitioners were empanelled for appointment in Group-D posts in the district of Jamui on the basis of a judgement passed by this Court in M.J.C. No. 5264 of 2013, dated 3rd of September,



2014. The said panel was prepared on 9th of October, 2014. The petitioners were waiting for long eight (08) years with the hope that they would be appointed in Group-D services as they were empanelled in the year 2014. However, only in 2022, the petitioners were informed that they cannot be appointed on any Group-D post due to the reason that the rule of appointment has been changed by Notification No. 5983, dated 23rd June, 2020, issued by the General Administration Department, Government of Bihar, Patna. This prompted the petitioners to file the instant writ petition.

3. It is submitted by the learned Advocate for the petitioners that since the petitioners were empanelled for appointment, they were hoping that on any date they would be appointed in Group-D services. The rationale behind their legitimate expectation is attempted to be established by the learned Advocate appearing on behalf of the petitioners, showing Clause-6 of the Bihar Class-IV (Appointment and Service Conditions) Rules, 2010. Clause-6 (4) states: -

“The appointment may be made on the basis of panel prepared by the Selection Committees in the concerned financial year (till 31st March). The validity of the panel shall be for only one year with effect from the date of receipt of recommendation in the department.”



4. It is submitted by the learned Advocate for the petitioners that the petitioners came to know that their names are in the merit-list only in the year 2014 itself. Since their names were in the merit-list, they expected that they would be recommended for appointment. However, they were not.

5. The terms “selected for recommendation” “recommended for appointment” and “appointed” connote three different stages in service jurisprudence. The selection in a recruitment examination for being recommended to a particular post does not give a person, selected, unfettered right to be recommended. Again, the authority may not appoint the person even after being recommended for appointment. Selection and recommendation for a particular post may create a legitimate expectation of a candidate for appointment. To such legitimate expectation is not a right, for violation of which writ remedy is always available. In the instant case Clause-6 (4) of 2010 Rules clearly states that the Selection Committee may prepare a panel for appointment in the concerned financial year ending on 31st of March of a particular year. The validity of the panel shall remain for one year w.e.f. the date of receipt of recommendation.

6. It is contended by the learned Advocate for the



petitioners that the petitioners came to know that they were not recommended, even after their selection, only in the year 2022. Therefore, the cause of action to file the instant writ petition arose only in the year 2022 and immediately the petitioners availed the opportunity by filing the instant application under Article 226 of the Constitution of India.

7. Close reading of Clause – 6 (4) suggests that the Selection Committees would send the recommendation of selected candidates to the Department. Thus, the selected candidates had no right to know as to whether they were recommended or not. Again, it was the duty of the Department to appoint the recommended candidates within one year w.e.f. the date of receipt of recommendation. Thus, panel of 2014 has ended after the expiry of 2015. The petitioners came up before this Court seeking for the relief in the year 2022. Therefore, the petitioners were sitting idle for long eight years without pursuing their legal right and remedy, if any.

8. Therefore, on the ground of delay and laches also, the petitioners do not have any case.

9. For the reasons stated above, I am not in a position to allow the instant writ petition.

10. The instant writ petition is accordingly dismissed,



on contest.

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

(Bibek Chaudhuri, J)

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