

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11915 of 2013

1. Jitendra Kumar S/O Jagdish Prasad Resident Of Village and P.O- Singhwalia, Via- Motipur, P.S- Motipur, District- Muzaffarpur.
2. Misbahul Haque S/O Md. Mustakin Resident Of Mohalla- Agrarwa, 4th Street, Agrarwati, Motihari, P.S- Motihari, District- East Champaran.
3. Shyam Nandan Prasad S/O Late Gangadeo Prasad Resident Of Village- Madhopur Sansariya, Tripoliya, P.S- Tripoliya, District- East Champaran.
4. Bigu Raut S/O Late Rudal Raut Resident Of Village and P.O- Sai, P.S- Kanti, District- Muzaffarpur.
5. Md. Akil Ahmad S/O Safdar Hussain Resident Of Village and P.O- Sapahi, Via- Dhaka, P.S- Dhaka, District- East Champaran
6. Bhagwan Prasad S/O Sri Ganesh Prasad Resident Of Village- Tirhutiya, P.O- Brindawan, Ashram, District- West Champaran.
7. Md. Anwarul Haque S/O Islam Ansari Resident Of Village- Sapahi, P.O and P.S- Jhitkahi, District- East Champaran.
8. Ram Gopal Ojha S/O Sheo Shambhu Nath Ojha Resident Of Village and P.O- Ojha Ke Simariya, P.S- Shahpur, District- Bhojpur.
9. Suryalok Kumar S/O Sri Chhattu Rai Resident Of Village- Sahpur, P.S- Shahpur, District- Bhojpur.
10. Shyamji Rai S/O Sabri Rai Resident Of Village, P.O and P.S- Shahpur, District- Bhojpur.
11. Suresh Pal S/O Sri Chandradeo Pal Resident Of Village- Kalyanpur, P.O- Bharathua, P.S- Aurai, District- Muzaffarpur.
12. Rajeev Kumar Saha S/O Sri Dip Narayan Saha Resident Of Village, P.O and P.S- Sultanganj, District- Bhagalpur.
13. Ashok Kumar Mandal S/O Late Sitaram Mandal Resident Of Village and P.O- Maotola, P.S- Sultanganj, District- Bhagalpur.
14. Subhash Chandra Prasad S/O Sri Biro Mandal Resident Of Mohalla- Nagratoli, P.S- Nagratoli, District- Ranchi, Jharkhand
15. Ram Kumar Choudhary S/O Sri Nagarnath Choudhary Resident Of Pipra Jagdish, P.S- Bihita, District- Bhojpur.
16. Uma Shankar Mishra S/O Late Punyadeo Mishra Resident Of Village- Ginjas, P.O- Jinjas, P.S- Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Chief Secretary, Government Of Bihar, Patna.
3. Principal Secretary, Building Construction Department, Government Of Bihar, Patna.
4. Principal Secretary, Education Department (Formerly Human Resources Development Department), Government Of Bihar, Patna.



5. Engineer- In- Chief, Building Construction Department, Government Of Bihar, Patna.
6. Superintending Engineer, Building Construction Department, Building Circle, Motihari, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shanti Pratap, Advocate
Mr. Ajit Ranjan Kumar, Advocate
For the Respondent/s : Mr. Yogendra Pd. Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 13-08-2024 Heard Mr. Shanti Pratap along with Mr. Ajit Ranjan Kumar, learned counsels appearing on behalf of the petitioners and Mr. Yogendra Pd. Sinha, learned counsel for the Respondents/State.

2. The petitioners in paragraph no. 1 of the present writ petition have sought *inter alia* following relief(s), which is reproduced hereinafter:-

“1. That this writ application is being filed for commanding the respondents to immediately consider the case of the petitioners for their appointment against sanctioned and vacant Class III & IV posts under different divisions/circles of Building Construction and Housing Department, Government of Bihar in light of the order and direction dated 22.12.1992 passed by this Hon'ble Court in C.W.J.C. No. 12609 of 1992 (Annexure-3) and the observation made by the Hon'ble Apex Court in S.L.P. No. 10283 of 1993 vide order dated 20.08.1993 (Annexure-4).

This writ application is also being filed for holding that the impugned non-consideration of case of the petitioners for their appointment



against sanctioned and vacant class III & IV posts in the Building Construction and Housing Department of the State Government is illegal, arbitrary and without any lawful justification.

2. That in the instant writ application, the petitioner has prayed for the following reliefs:

(i) For commanding the respondents to immediately consider the case of the petitioners for their appointment against sanctioned and vacant Class III & IV posts under different divisions/circles of Building Construction and Housing Department, Government of Bihar in light of the order and direction dated 22.12.1992 passed by this Hon'ble Court in C.W.J.C. No. 12609 of 1992 (Annexure-3) and the observation made by the Hon'ble Apex Court in S.L.P. No. 10283 of 1993 vide order dated 20.08.1993 (Annexure-4).

(ii) For holding that the impugned non-consideration of case of the petitioners for their appointment against sanctioned and vacant class III & IV posts in the Building Construction and Housing Department of the State Government is illegal, arbitrary and without any lawful justification.

(iii) For grant of any such other relief or reliefs as your Lordships may deem fit and proper in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioners has referred to order dated 20.08.1993 passed by the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No. (s) 10283 of 1993, which is re-produced *inter alia* hereinafter



as follows : -

“It is not disputed by the respondents that the petitioners are entitled to continue in service for the fact there are no funds to continue the project. The petitioners have been retrenched from service for want of continuing work. The High Court was also sympathetic in making observations that as and when exigencies arise, for fresh recruitment, the petitioners would be given priority and also to relax their age if they are over aged by that time and consider them for appointment in future vacancies reiterate the directions issued by the High Court. But in the circumstances I cannot interfere with the order. It is accordingly dismissed.”

4. In view of the aforesaid order passed by the Apex Court, in case of any fresh recruitment, in future, the petitioners' case must be given priority by giving them age relaxation.

5. Learned counsel accordingly seeks to file detail representation before the appropriate authority to consider the case of the petitioners for their permanent employment in accordance with law.

6. The present writ petition is accordingly disposed of.

(Purnendu Singh, J.)

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