

[illegible]



petitioners and Mr. Md. Nadim Seraj, learned GP-5 along with Mr. Shailesh Kumar, learned AC to GP-5 for the State.

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

I. For issuance of appropriate writ/writs, order/orders, direction/directions to respondent to publish fill up all the seat of 220 instead of filling up only 194 seats and adjust the petitioner from the those vacant seats of advertisement no.2 of 2011.

II. For issuance of appropriate writ/writs, order/orders, direction/directions to respondent to publish the merit list district wise instead of block wise and conduct the process of selection as per rule provided in advertisement no 2 of 2011 and also to direct respondents to not prepared provisional list as well as merit list on block basis.

III. For issuance of direction to the respondent to fulfill all the vacant post under the advertisement no 2 of 2011.

IV. For issuance of appropriate writ/writs, order/orders, direction/directions to respondent to appoint petitioner no 2 at pace of respondent 6 who has been appointed as OBC candidate at place of ST candidate seat.

V. For issuance of appropriate writ/writs, order/orders, holding that all those merit list prepared on block level are contrary to the rule and as such are liable to cancel.

VI. For issuance of any other appropriate writ/writs, order/orders, direction/directions, for which petitioner may deemed entitled under the fact and circumstance of the case.

3. The brief facts of the case are that an advertisement no. 2/2011 was published on 30.07.2011 for appointment against 10032 rural and 1090 urban area Home Guard post, wherein it was clearly mentioned in the advertisement that the selection committee was empowered only to make recommendation of name of qualified candidates to the District Magistrate and thereafter the District Magistrate will publish the merit list accordingly. Several candidates applied for the post of Home



guard in the District Siwan, where there were 222 seats allotted for the said post in District of Siwan. After proper scrutinization of the applications and physical and medical tests of the applicants in the year 2016, a merit list was prepared on the Block level basis which was contrary to the rules of the advertisement. A total of 185 candidates were selected against the post of 222 seats in the Siwan District. After the publication of the final merit list, a waiting list of the candidates was also prepared and the name of the petitioners appeared in the same. Thereafter several representation was given by the candidates including the petitioners (Annexure- 8), but the respondents paid no heed to the applicants.

Submissions

4.The learned counsel appearing on behalf of the petitioner submitted that an advertisement no. 2/2011 was published on 30.07.2011 for appointment against 10032 rural and 1090 urban area of Home Guard post. Several candidates applied for the post of Home guard including the petitioners in the District Siwan, where there were 222 seats allotted for the said post in District of Siwan. The counsel submitted that it was clearly mentioned in the advertisement that the selection committee was empowered only to make recommendation of



name of qualified candidates to the District Magistrate and thereafter the District Magistrate will publish the merit list on District basis accordingly. After proper scrutinization of the applications and physical and medical tests of the applicants in the year 2016, a merit list was prepared on the Block level basis which was contrary to the rules of the advertisement. A total of 185 candidates were selected against the post of 222 seats in the Siwan District. And after the publication of the final merit list, a waiting list of the candidates was also prepared and the name of the petitioner appeared in the same. Thereafter several representation was given by the candidates including the petitioner (Annexure- 8) but the respondents paid no heed to the applicants. Rather, the applicants who had scored less than the petitioners or in any manner was lower in rank to the petitioners were selected by the respondents.

5. Learned counsel further submitted that this Court vide order dated 05.02.2021, in CWJC No. 11645/2019, directed that the respondents shall publish the merit list on the District wise and not Block wise (Annexure- 9). Consequently several representations were made by the applicant and the petitioners, but no initiation was taken by the Respondents.

6. *Per Contra*, learned counsel appearing on



behalf of the respondent submitted that the selection of the Home guards under the advertisement no. 2/2011 has been made in accordance with the law and the merit list so prepared was on block level basis which was sent to the District Magistrate and thereafter the selection of the candidates were made in accordance with the rules of the advertisement. The counsel further submitted that other candidates who were appointed were from reserved categories and therefore their appointment was in accordance with the law.

Analysis and Conclusion

7. Heard the Parties.

8. Considering the rival submissions made on behalf of the parties and in the light of the order passed in L.P.A. No. 645 of 2021 and analogous cases by the Division Bench of this Court and the observations made therein that the post of Home Guard is District wise recruitment post and not Block wise, resultantly, at some stages, respondents have committed error in not adhering to the relevant Rules of recruitment, the present writ petition stands allowed.

9. The petitioners, if so advised, may file a detailed representation for the redressal of their grievance before the District Magistrate, Siwan who is directed to consider the



representation of the petitioners expeditiously, in light of the order passed by the Division Bench of this Court in L.P.A. No. 645 of 2021 and analogous cases.

(Purnendu Singh, J)

mantreshwar/-

U			
---	--	--	--

