

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16239 of 2023

Payal Wife of Dilip Kumar Roy, resident of Village- Sarebad, P.O. - Aghara,
P.S. - Sono, District - Jamui, presently residing at Village and Post-
Jankinagar, P.S. - Nayaramnagar, District- Munger, Bihar – 811211.

... .. Petitioner/s

Versus

1. The Bihar Public Service Commission through its Chairman, 15 Jawahar Lal Nehru Marg, Bailey Rd, Patna, Bihar 800001.
2. The Chairman, Bihar Public Service Commission, Patna.
3. The Controller of Examination, Bihar Public Service Commission, Patna.
4. The Public Information Officer, Bihar Public Service Commission, Patna.
5. The State of Bihar through Principal Secretary, General Administration Department, Government of Bihar, Patna.
6. The High Court of Judicature at Patna through its Registrar General, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Apurv Harsh, Advocate
For the Respondent/s : Mr. Dhurjati Kr. Prasad (GP-14)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 16-01-2024

1. Heard the parties.
2. The present writ petition has been preferred for the following reliefs:-

i. for issuance of writ, orders, directions in the nature of Mandamus, commanding the Respondent Bihar Public Service Commission to release



the separate cut off marks for the category of Scheduled Caste (Female) in Bihar 32nd Judicial Services (Pre) Competitive Examination.

ii. for issuance of writ/order/direction to the respondents to declare revised result after declaring separating cut off marks for the Scheduled Caste (Female) category of persons and they may further be directed to permit the successful candidates of the scheduled Caste (Female) category to appear in Main examination of 32 Bihar Judicial Services.

iii. for issuance of direction to the Respondents to allow the Petitioner to appear in the Main examination of 32 Bihar Judicial Services, during the pendency of this writ petition.

iv. For issuance of writ/order/direction to the respondents to stay the Mains Examination till the disposal of this writ.

3. The facts of the case is/are as follows:-

4. The petitioner claims herself to be a graduate in the Business Administration (Honours) and has also obtained her LL.B. degree from Veer Kunwar Singh University in the year 2022. She was one of the candidate for the 32nd Bihar Judicial



Services pursuant to the advertisement [Advt. No. 23/2023] issued on 20.02.2023 by the respondents for the appointment to the post of Civil Judge (Junior Cadre). It is her case that total 155 posts were advertised for the year 2023 out of which 29 posts were reserved for the Scheduled Castes persons, this included 7 posts for Scheduled Caste (Female).

5. According to the petitioner, in the scheme of selection, there was to be a preliminary examination followed by main examination and interview. Further, as per sub-clause 1 of clause 4 (क) of the advertisement, the number of candidates to be admitted to the main examination was to be maximum ten times the total number of vacancies (category-wise) but in the said range all those candidates who secure the same percentage of marks on the last cut-off was/were to be included in the main examination.

6. Pursuant thereto, she submitted her online application under the category of Scheduled Castes (Female) and participated in the preliminary examination conducted on 04.06.2023. She claims that 17819 candidates including the petitioner appeared in the preliminary examination and the result was declared on 26.09.2023. As the petitioner could not make it to the mains exam, she took the RTI route but did not



get reply. Later, 09.10.2023, the score card/marksheet was released when she could know to have secured 120 marks out of 250.

7. The petitioner's grievance is/are two fold:

(a). firstly, there was an allocation of 7 seats out of the 29 seats [later amended to 28 seats on 02.09.2023] of the Scheduled Caste category, which is only 25% of the said strength whereas the reservation policy provides for 35% horizontal reservation in the class category. Thus, the same should have been at least 10 posts;

(b). Secondly, she obtained 120 marks [corresponding to 48%], which is much above the minimum qualifying marks, fixed at 40%.

8. Further case of the petitioner is that in the result so published both the SC (male) and SC (female) cut off have been shown as 125 marks which is not possible taking into account the results of previous years where there was difference of marks in the male/female Category.

10. A counter-affidavit has been filed on behalf of respondent Nos. 1 to 4. As per it:-

(i). 'the Commission' had published Advertisement No, 23/2023 on



20.02.2023 inviting online applications from the suitable candidates under 32nd Bihar Judicial Services (Preliminary) Competitive Examination

(ii). subsequently the examination was held on 04.06.2023 and the Commission published the Preliminary examination result on 26.09.2023 in which 1675 candidates were declared successful. The petitioner Payal, (Roll No. 128801, category-Schedule Caste) obtained 120 marks which is less than the cut-off marks of her category i.e., 125 marks.

(iii). the cut-off marks of both the Scheduled caste (male and female) were 125, whereas the petitioner secured only 120 marks and, as such, she could not proceed further.

11. The further stand of the respondents is/are that:

(i). the result of ladies candidates was prepared according to the guidelines made by the General Administration Department by its letter no 2342 dated 15.02.2016. Para (ga) states that In the third stage of selection, it



will be calculated as to how many women have been selected in different reserved/non-reserved categories without 35 percent horizontal reservation in the selected list for 100 posts. If their quota of 35 percent horizontal reservation is fulfilled, then this selection list will be considered final for appointment.”

(ii). in advt. no 23/2023, total 28 seats was reserved for Schedule Caste candidates, out of which 07 seats was for lady candidates. According to advertisement 10 times of result was to be published for written examination. Thus for 28 seats, 280 result (70 result for female candidates) was to be published.

(iii). on preparing merit list of 280 candidates it was found that 75 female candidates were selected suo moto. 14 candidates also obtained same marks as obtained by the 280th position candidate. Thus total 294 results were published for 28 seats which included 75 female candidates. The last selected Female and Male candidates



obtained 125 marks which is much higher than the marks obtained by the petitioner i.e. 120 marks.”

12. The further stand of ‘the Commission’ is that pursuant to result declared, the mains (written competitive examination) examination took place and the process stands completed on 29.11.2023. The submission of the learned counsel for the respondents is that the petitioner having secured 120 marks only and the cut-off marks being 125 marks for SC (female) category, she do not have any case.

13. We have gone through the facts of the case and the materials on record. The respondents have clearly explained the reasons why the petitioner could not proceed further in the examination. The preliminary exam was held and the result declared on 26.09.2023 in which 1675 candidates were declared successful. The chart is part of the counter affidavit as Annexure R1/2 showing cut-off marks for different categories. The petitioner claimed that the SC (female) category is blank whereas the submission of ‘the respondent Commission’ is that since both the male and female cut-off marks stood at 125 marks, it was not incorporated separately. The same having been explained properly, we accept it.

14. So far as the claim of the petitioner that earlier



there were difference of marks in SC (male) and SC (female) and the same should have reflected in the chart in the present exam too; the said submission is fit to be rejected. Simply because earlier there was a difference in the marks of SC (male) and SC (female) category, that cannot be the basis to come forward and submit that there should have been a difference between the male and the female candidate this year too.

15. So far as the further claim that the number of women candidates in the reserved category under the reservation policy should have been more, the same has also been explained well by 'the respondent Commission' in earlier paragraphs and need no repetition. There is no reply to the counter-affidavit rebutting the explanation.

16. Instead of putting in her energy in studies and taking plunge in the future recruitment process, the petitioner has chosen to burn midnight oil to anyhow get space in the present recruitment process but delayed filing of the writ petition inasmuch as it has been filed one month after the publication of the result on 26.09.2023 and subsequent call dated 03.10.2023 by 'the Commission' inviting online applications from the successful candidates for appearing in



mains examination.

17. This Court can only extend good wishes to the petitioner in her future endeavours. However, no relief, whatsoever can be extended to her in the present case.

18. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Adnan/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.01.2024
Transmission Date	

