

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1293 of 2020

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Md. Farooque Hussain Son of Md. Mahfooz Hussain Village- Bari Dhaka,
P.O.- Dhakamore, P.S.- Banka, Telia, District- Banka- 813103 (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Department, Government of Bihar, Patna.
2. Principal Secretary, Home Department, Government of Bihar, Patna.
3. Secretary Home (Prison), Government of Bihar, Patna.
4. The Inspector General of Prison and Correctional Services, Government of Bihar, Patna.
5. The Superintendent, Mandal Kara, Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Siddhartha Prasad, Advocate
For the Respondent/s	:	Mr. P.K. Verma (AAG-3)
		Mr. Saroj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 01-03-2024

Heard learned counsel for the petitioner and
learned counsel for the State.

2. The present writ petition has been filed for quashing the order dated 22.08.2019 passed by respondent No.4, by which the representation of the petitioner dated 14.02.2019 has been rejected on the ground that petitioner does not fulfill condition mentioned in Clause 8(i) of the Advertisement dated 17.08.2015.

3. Learned counsel for the petitioner submits that



the petitioner has earlier moved before this Hon'ble Court vide Annexure-13 in CWJC No.1827 of 2019 in which vide order dated 04.02.2019, this Hon'ble Court after considering the entire case of the petitioner has pleased to direct the petitioner to file representation before the Inspector General of Prison, Bihar, Patna, within a period of four weeks along with a copy of the order and it was directed to the Inspector General of Prison, Bihar, Patna, to dispose of his representation in the light of observation made by this Court within a period of eight weeks. Counsel submits that the petitioner has filed the representation and his representation was rejected and communication has been made in this regard vide Memo No. 7209 dated 26.08.2019, raising the same point that there is deficiency of eligibility criteria mentioned in Clause 8(i) of the Advertisement.

4. Learned counsel for the petitioner submits that after the said decision against the petitioner he has challenged the order before this Court by way of filing the present writ petition. Counsel submits that only point has been taken that at the time of advertisement the petitioner was not working. Counter affidavit has been filed by the State in which State has repeated the same stand.

5. In response thereof, a rejoinder has been filed



in which the petitioner has raised series of names i.e., Rubi Khatoon, Asha Devi, Braj Kishore Singh, Ajay Bhagat, Jay Lal Kumar Thakur, Gorakh Choudhary and Dharmnath Yadav and submits that there are series of persons whose cases are exactly similar to that of the present petitioner i.e., those persons who were not working at the time of advertisement even then their services have been considered, but case of the petitioner has been rejected on the same ground.

6. This Court has directed respondent No.4 to file specific supplementary counter affidavit on this point. In reply, respondent No.4 has not denied that those persons were not appointed and instead thereof he has taken the plea that some of the persons were appointed by the order of this Hon'ble Court and some of the persons were appointed by the decision/recommendation of the screening committee.

7. Learned counsel for the State submits that it is true that the statement made in rejoinder to the counter affidavit has not been denied and in the supplementary counter affidavit it has been stated that the joining of other persons are only by virtue of Hon'ble Court's order or by decision of the Screening Committee.

8. In the light of the submissions made by the



parties and upon going through the documents, it transpires to this Court that it is a clear cut case of discrimination with the petitioner, particularly, when this Hon’ble Court has already directed vide order dated 04.02.2019 passed in CWJC No.1827 of 2019 in favour of the petitioner.

9. This Court is of the firm view that the order impugned dated 22.08.2019, contained in Memo No.7209 dated 26.08.2019, is not sustainable in the eye of law and, therefore, set aside. Respondent No.4, the Inspector General of Prison and Correctional Services, Government of Bihar, Patna, is directed to regularize the services of the petitioner as like that of other persons discussed above have been considered and the said letter is directed to be issued to the petitioner within three months from the date of receipt/production of a copy of this order by the petitioner to him. It is made clear that petitioner is not entitled for the salary for which he has not worked.

10. Accordingly, the present writ petition is allowed.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.03.2024
Transmission Date	NA

