

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.422 of 2021

In
Civil Writ Jurisdiction Case No.9228 of 2018

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1. Pramod Kumar S/o Shiwji Pandey, Resident of Village - Fatehabad, Block - Paroo, District - Muzaffarpur.
 2. Arbind Kumar, Son of Shyamdeo Singh, Resident of Village - Kaphen Madaul, Block - Kudhni, District - Muzaffarpur.
 3. Pravin Kumar, Son of Lal Narayan Thakur, Resident of Village - Sakriman, Post Office - Sakri Chandpura, Police Station- Pear, District - Muzaffarpur.
 4. Birendra Prasad Singh, Son of Shankar Bhagat, Resident of Village - Chadhua, Block - Kudhni, District - Muzaffarpur.
 5. Madan Kumar Singh, Son of Late Suraj Singh, Resident of Village and Post Office - Jagdishpur, Police Station- Sahebganj, District - Muzaffarpur.
 6. Nawal Kishor Yadav @ Nawal Prasad, Son of Mahendra Prasad Yadav, Resident of Village - Kanhara, Police Station and Block - Bochaha, District- Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Director, Directorate of Panchayati Raj, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The District Panchayati Raj Officer, Muzaffarpur.
5. The Secretary, Bihar Staff Selection Commission, Post Office - Veterinary College, Patna.
6. Nandeshwar Prasad, Son of Late Pradip Prasad, Resident of village and Post Office - Chhitrauli, Police Station- Maniyari, District - Muzaffarpur.
7. Shashi Ranjan Singh, Son of Late Chandra Shekhar Prasad Singh, Resident of village - Sakarwara Savik, Post Office - Sakarwara, Police Station- Gayghat, District - Muzaffarpur.
8. Gyan Prakash Singh, Son of Late Gaya Prasad Singh, Resident of Village and Post Office - Amma, Block - Katra, District - Muzaffarpur.
9. Raj Nandan Rai, Son of Late Sujawal Rai, Resident of Village - Rusalpur, Post Office - Karnaul, Police Station- Sahebganj, District - Muzaffarpur.
10. Shashi Kant Kumar, Son of Jatadhari Prasad Singh, Resident of Gram Panchayat - Mohammadpur Gokul, Police Station and Block - Muraul, District - Muzaffarpur.
11. Vijay Kumar Jha, Son of Rameshwar Jha, Resident of Gram Panchayat Narauli Binda, Police Station and Block - Musahari, District - Muzaffarpur.
12. Awadh Kishore Sah, Son of Sri Narayan Sah, Resident of Gram Panchayat ,



Police Station and Block - Minapur, District - Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Arun Kumar, Advocate
For the State : Mr. Manish Kumar, AC to Ex. AAG-6
Incharge AAG-5

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 08-05-2025

The appellants have assailed the order of the learned Single Judge dated 15.04.2021 passed in CWJC No. 9228 of 2018.

2. Co-ordinate Bench and this Bench is hearing the matter from 19.12.2024, and the matter is adjourned at the behest of the respondents for one or the other reason. Time to time, we have issued direction apprising this Court how the newly created 75 vacancies of Panchayat Secretary have been filled up. They could not apprise, however, they are keep on filing one after another supplementary counter affidavits taking note of the 2nd supplementary counter affidavit read with 3rd supplementary counter affidavit. In the 2nd supplementary counter affidavit Annexure-A dated 07.09.1999, consisting of 42 names, the respondents could not apprise this Court that who are promoted or appointed as a Panchayat Secretary against 10



backlog vacancy. On the other hand, in the 3rd supplementary counter affidavit, para 10 and 13 it is stated as under:-

“10. That the rest 43 posts of Panchayat Sewak, which were to be filled up from eligible Dalpatis after the Panchayat elections, out of which, two post from Dalpatis were filled up in pursuant to the order passed in C.W.J.C. No.13598 of 2001 through letter no.563/Panch. dated 15-05-2009, their names are mentioned at serial no.448 and 449 of Roster Register (Awdesh Prasad Singh and Shiv Pujan Singh).

13. That the recommendation of the District Selection Committee, dated 09-09-2008, as contained in letter no.1284/Panchayat, dated 09-09-2008, was returned via letter no.2877/Panchayat Raj, dated 26-06-2009, with the reason provided that the sanctioned posts had already been properly filled.”

3. Perusal of the pleadings in 2nd supplementary counter affidavit and 3rd supplementary counter affidavit on behalf of respondents, it is evident that they have failed to apprise this Court that backlog vacancies could be adjusted against newly created 75 vacancies of Panchayat Secretary with any State Government policy. On the other hand, they could not give the details for 75 vacancies were filled up amongst *Dalpatis*. It is to be noted that the post of Panchayat Secretary of 75 vacancies created were earmarked for *Dalpati* as a one time measure in the



light of various judicial pronouncements.

4. In the light of these facts and circumstances, we have to draw inference that 10 backlog vacancies have been adjusted against 75 vacancies and it should not have been adjusted. Therefore 10 vacancies of backlog which are adjusted against 75 vacancies should be taken out and the appellants name shall be considered and suitable order be passed with reference to their eligibility as on the date of filling up of posts of Panchayat Secretary pursuant to creation of 75 posts and extend all service benefits. However, it is made clear that they are not entitled to difference of salary from the date of filling till promoting/appointing these appellants to the post of Panchayat Secretary. The above exercise shall be completed within a period of three months from the date of receipt/production of a copy of this order.

5. Accordingly, order dated 15.04.2021 of the learned Single Judge passed in CWJC No. 9228 of 2018 stands set aside on the sole ground that the learned Single Judge has not taken note of material information in particularly how 75 vacancies of Panchayat Secretary have been filled up. In other words, without examining the mode of filling up of 75 vacancies is only from *Dalpati* or it is inclusive of backlog vacancy, to that



extent the learned Single Judge order is erroneous and it is set aside.

6. Accordingly, LPA stands allowed.

7. Personal appearance of Mr. Naveen Kumar, DPRO, Muzaffarpur, Government of Bihar, is hereby dispensed with.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.05.2025
Transmission Date	NA

