

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10204 of 2018

1. Harindra Dubey @ Harindra Dwivedi, Son of Ram Ratan Dubey Resident of Village and P.O. - Bhitaha Nazamat, P.S. - Bairiya, Dist. - West Champaran.
2. Nandu Prasad @ Nandu Patel Son of Brahmdeo Prasad Resident of Village Mathiya, P.O. - Bhitaha Nazamat, P.S. - Bairiya, Dist. - West Champaran.
3. Rajesh Kumar Jaiswal Son of Sri Satyanarain Prasad Resident of Mohalla - Sahid Chowk, Ganj No. - 1, Sonarpatti, P.S. - Bettiah Nagar, Dist. - West Champaran.
4. Ashok Kumar Son of Shri Ganesh Prasad Resident of Mohalla - Elamram Chowk, Ganj No. 2, Ward No. 18, P.S. - Bettiah Nagar, Dist. - West Champaran.
5. Rameshwar Prasad Arya Son of Bindeshwari Prasad Resident of Mohalla - Jay Prakash Nagar, P.O. - Narkatiyaganj, P.S. - Shikarpur, Dist. - West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Principal Secretary, Department of General Administration , Government of Bihar, Patna.
4. Divisional Commissioner, West Champaran.
5. The District Magistrate, West Champaran, Bettiah.
6. The Deputy Collector, West Champaran, Bettiah.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Gupta, Advocate
For the State : Mr. Birendra Prasad Singh (AC to SC-19)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

[illegible]

2. The present writ petition has been filed for seeking a direction to the respondents to reappoint and regularize the



services of the petitioners in accordance with the notification contained in Memo No. 283 dated 19.06.2013 (annexed as Annexure-4), with effect from the date of their retrenchment, or alternatively, to reappoint the petitioners in the same manner as has been done in other districts.

3. Learned Counsel for the petitioners submits that the petitioners were appointed on a contractual basis to Class-IV posts as Compilers and were serving in the Regional Tabulation Office under the Directorate of Census. Their services were terminated upon completion of the Census work, and they are now seeking absorption into government service under the State of Bihar. Counsel further submits that the petitioners had approached this Court, and the matter was ultimately taken up by the Hon'ble Supreme Court of India in case of ***State of Bihar & Ors. Vs. Shyam Yadav & Ors.*** in ***Civil Appeal Nos. 9227-9234 of 1995*** in which *vide* judgment dated 14.01.1997, Hon'ble Supreme Court has pleased to held as follows:-

“In the result, the appeals are allowed, the impugned judgments of the High Court, in so far as they direct that the retrenched employees of 1991 census operations are entitled to be given preference in the matter of appointment in the services under the State of Bihar, are set aside. The petitioners can apply for



appointment against any post falling vacant if they fulfil the qualification and other conditions prescribed for appointment to such post and, if they so apply, they shall be considered in accordance with the rules governing such appointment. In case they are found to be over age, one time relaxation in age may be given to them provided they were within the age limit prescribed for appointment at the time of their initial recruitment in the census organisation. It is also directed that registration in the Employment Exchange of those petitioners who were earlier so registered prior to their appointment to the census organisation shall be restored and those who were not registered would be entitled to get themselves registered at the Employment Exchange. The petitioners who are thus registered with the Employment Exchange shall be given priority/relaxation in the matter of forwarding their names for appointment against future vacancies. No order as to costs.”

4. Here in the present case, a panel was prepared for appointment to Class-IV post in 2011 in which petitioners were included. The said panel was processed and concluded in the year 2017. The petitioners are claiming that their case were not considered.



5. Learned Counsel for the State on the other hand submits that in compliance of the direction of Hon'ble Supreme Court, one time relaxation in age was granted to the petitioners. However, the second part of the order could not be implemented as recruitment process had already concluded in the year 2017. But due to passage of time, petitioners have now exceeded the upper age limit prescribed for appointment to the service.

6. In response thereof, Counsel for the petitioners submits that one of the petitioners i.e petitioner no. 4 namely, Ashok Kumar has not crossed the upper age limit prescribed for appointment to the service till date.

7. In the light of submissions made by both the parties, it appears to this Court that with the efflux of time, writ petition for petitioner nos. 1, 2, 3 and 5 has now become infructuous as they have crossed the age of superannuation. But, as per Counsel, claim for petitioner no. 4 still comes within the purview of judgment passed by the Hon'ble Supreme Court mentioned above.

8. Therefore, petitioner no. 4 is hereby directed to file a fresh representation within 30 days before the District Magistrate, West Champaran, Bettiah (Respondent no. 5) and Respondent no. 5 is directed to pass a reasoned and speaking



order on the representation filed by petitioner no. 4 within 90 days thereafter, after considering this aspect of the matter that case of petitioner no.4 is covered still today in the light of judgment passed by the Hon'ble Supreme Court and his age has not exceeded the upper age limit prescribed for appointment to the service.

9. Accordingly, with the aforesaid observation & direction, this writ petition stands disposed off.

(Dr. Anshuman, J)

Divyansh/-

U			
---	--	--	--

