

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12528 of 2021

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Rina Kumari D/o Late Sheo Kumar Ojha, R/o-C/o-Rajesh Kumar Ojha,
Masjid Lane, Badi Khanjarpur, Jagdishpur, P.S.-Barari, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Bihar Public Service Commission through its Chairman.
3. The Chairman, Bihar Public Service Commission.
4. The Joint Secretary-Cum-Examination Controller, Bihar Public Service Commission.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhijit Anand, Advocate
For the State	:	Mr. Sheo Shankar Prasad, S.C.8
For the B.P.S.C.	:	Mr. Lalit Kishore, Sr. Advocate
		Mr. Sanjay Pandey, Advocate
		Mr. Nishant Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

C.A.V. JUDGMENT

Date : 09-02-2026

Heard Mr. Abhijit Anand, learned counsel for the petitioner and Mr. Lalit Kishore, learned Senior counsel assisted by Mr. Sanjay Pandey, learned counsel for the Bihar Public Service Commission ('B.P.S.C.' in short).

2. The petitioner has filed the instant application for the following relief(s):

“1. That this application is being filed for issuance of an appropriate writ/order/direction upon the Bihar Public Service Commission (BPSC) to declare the petitioner successful in the 64th Combined Competitive Examination as she has got



514 marks which is more than the cut off marks of 513.

1/A. That the petitioners further pray for issuance of an appropriate writ/order/direction quashing the part of the letter dated 17.06.2021 in which the objection of the petitioner has been disposed of as follows:-

“सुश्री रीना कुमारी, अनुक्रमांक-570183, मेधा क्रमांक-1650 द्वारा केवल आपूर्ति निरीक्षक, श्रम प्रवर्धन पदाधिकारी, प्रखंड पंचायत राज पदाधिकारी एवं प्रखंड अनुसूचित जाति एवं अनुसूचित जनजाति कल्याण पदाधिकारी के पदों के लिए अधिमानता का अंकन अपने आवेदन के सार प्रपत्र-II (घोषणा) में किया गया है। उक्त पदों के अन्तर्गत अनारक्षित (01) महिला कोटि में चयनित अंतिम उम्मीदवार मेधा क्रमांक-1565 पर अवस्थित हैं। उक्त पदों के लिए कम प्राप्तांक रहने के कारण इनका चयन नहीं हुआ।”

1/B. That the petitioner further prays for issuance of any other appropriate writ/order/direction to which he is found entitled to.”

3. The case of the petitioner in brief is that the B.P.S.C. came out with an advertisement on 2.8.2018 for the 64th Combined (Preliminary) Competitive Examination for filling up 1255 vacancies of 19 different posts. The petitioner appeared and having qualified in both the preliminary and mains examination, was called for interview. She appeared for interview on 10.2.2021.

4. It is the case of the petitioner that she belongs to the unreserved (female) category and the cut off as per the B.P.S.C. for the said category is 513 marks. In spite of the petitioner



having secured 514 marks ie more than the cut off marks, the petitioner was not declared successful. As such, the petitioner filed her objection on 10.6.2021 addressed to the Controller of Examination, B.P.S.C. which was rejected vide order contained in letter dated 17.6.2021, impugned herein.

5. It is submitted by Mr. Abhijit Anand, learned counsel appearing for the petitioner that subsequent to the advertisement for the 64th Combined Competitive Examination published on 2.8.2018, the B.P.S.C. came out with a corrigendum on 5.11.2018 whereby the cut off age for four category of posts ie (i) Supply Inspector (ii) Labour Enforcement Officer (iii) Block S.C./S.T. Welfare Officer and (iv) Block Panchayati Raj Officer was increased. The petitioner, who was not able to apply earlier, as a result of change in the age limit of these four posts for the petitioner's category of unreserved (female) being from 1.8.1975 to 31.7.1981, the petitioner applied.

6. It is further submitted by learned counsel for the petitioner that the B.P.S.C. did not disclose the method of selection nor the reason for the petitioner's non selection. As would be evident from the letters brought on record by way of annexures in the interlocutory application addressed to the petitioner in response to her application under the R.T.I. Act,



2005, it is submitted that posts are still vacant. As such, the petitioner having secured more marks than the last selected candidate of her category, the B.P.S.C. be directed to recommend for her appointment. In support of his contention, learned counsel has placed reliance on the Division Bench judgment of this Court dated 1.3.2021 passed in CWJC no.3952 of 2020 (Swati Chaturvedi vs. The State of Bihar and Ors.). Learned counsel further submitted that the appeal preferred by the State of Bihar against this judgment in the Hon'ble Supreme Court was dismissed vide order dated 30.7.2021 passed in S.L.A. (C) no.11174 of 2021 (The State of Bihar vs. Swati Chaturvedi and Ors.).

7. Learned counsel for the petitioner further submits that many of the successful candidates not having joined on their respective posts, vacancies still exist where the petitioner can be appointed. Reliance has also been placed on the judgment of the Hon'ble Supreme Court in the case of *Malik Mazhar Sultan (3) and another vs. Uttar Pradesh Public Service Commission and others; (2008) 17 SCC 703*. As such, it is submitted that the writ application be allowed with a direction to the respondents to declare the petitioner successful in the 64th Combined Competitive Examination.



8. Mr. Lalit Kishore, learned Senior counsel appearing for the B.P.S.C. submitted that the advertisement for appointment on 1255 different posts in different departments of the Government of Bihar was published on 2.8.2018. Originally the cut off date for age being 1.8.2018, the petitioner could not apply for the reason of her being over age. Subsequently on the B.P.S.C. coming out with a corrigendum with the change in cut off date for age in four categories of service, the petitioner applied in those four categories.

9. It is submitted that a combined merit list was prepared wherein the name of the petitioner figured on Sl. no.1650. The last selected candidate in the unreserved (female) category to which the petitioner belongs was placed at Sl. no.1565. Thus, on account of the petitioner having obtained less marks than the last selected candidate for the said four posts, the petitioner was not selected.

10. Learned Senior counsel for the B.P.S.C. further submitted that so far as the other 15 services are concerned, there was no change in the cut off date for age with respect to them and the petitioner being over age could not apply against those 15 services and was not considered for them. Referring to the petitioner's application and more particularly the declaration



in Prapatra II, it is submitted that the petitioner clearly mentions the four services wherein she is making the application. The note therein with the title 'important' clearly provides that the services against which a cross (x) has been placed, candidature of the applicant will not be considered for them and persons whose name figured below the applicant in the merit list may be considered for the said services in case of any vacancies remaining. It was submitted that so far as the remaining 15 services were concerned, the petitioner had put a cross against the same not for the reason that she was not interested but for the reason that she was not eligible to apply on account of her being over age.

11. It is finally submitted by the learned Senior counsel for the B.P.S.C. that so far as the vacancies with respect to non joining is concerned, Clause 4(xiv) of the letter /guidelines dated 17.6.1977 of the Department of Personnel, Government of Bihar clearly provides that vacancies remaining unfilled due to candidates not joining the post or for any other reason shall be carried forward to the next year. Further, while the present application arises out of the 64th Combined Competitive Examination conducted in the year 2021, thereafter the B.P.S.C. has also conducted the 65th, 66th, 67th, 68th and 69th Combined



Competitive Examination and the 70th Combined Competitive Examination is going on. Reliance is placed on the judgment of this Court in the case of *Subodh Kumar vs. The State of Bihar & Ors.*; 2012 (2) PLJR 647.

12. In response, it is submitted by Mr. Abhijit Anand, learned counsel for the petitioner that even in the 66th Combined Competitive Examination, the candidate who secured 519 marks was selected as the last selected candidate in her category had obtained 518 marks. Learned counsel submits that there is no transparency in the process of selection and further reliance is placed on the judgment of the Hon'ble Supreme Court in the case of *Tej Prakash Pathak and others vs. Rajasthan High Court and others*; (2025) 2 SCC 1.

13. Heard learned counsel for the parties and perused the material on record.

14. The relevant facts in brief are that the B.P.S.C. came out with an advertisement on 2.8.2018 for appointment on 1255 posts in different departments under the 64th Combined (Preliminary) Competitive Examination, 2018. The last date for filling up the form online was 31.8.2018 which was extended by different notices till 10.9.2018.

15. The petitioner being over age could not apply against



any of the 19 posts mentioned in the advertisement. The B.P.S.C. came out with two corrigendums on 6.8.2018 and on 14.8.2018 enhancing the vacancies to be filled up to 1465. Thereafter the B.P.S.C. came out with a corrigendum on 5.11.2018 (Annexure P/1 to I.A. no.1 of 2025) stating therein that for the four posts of Supply Inspector, Labour Enforcement Officer, Block S.C./S.T. Welfare Officer and Block Panchayati Raj Officer, the age limit was changed. For the category of the petitioner ie unreserved (female), the change in the age was made from 1.8.1975 to 31.7.1981. It further provided that those persons who had not been able to file their applications on account of being over age, could do so now for the said four posts. It was pursuant thereto that the petitioner filed her application.

16. The petitioner was successful in the preliminary and the mains examination and on being called, appeared for interview on 10.2.2021. On the B.P.S.C. coming out with the results, the petitioner did not find herself to be selected.

17. It has been argued on behalf of the petitioner that having secured 514 marks which was more than 513 marks obtained by the last person selected in the petitioner's category of unreserved (female), the petitioner should have been selected.



18. In response, it has been submitted by the B.P.S.C. that so far as the four posts against which the petitioner filed her application, the last person who was selected in the petitioner's category of unreserved (female) was placed at sl. no.1565 while the petitioner's position in the merit list was at sl. no.1650.

19. It may be stated here that inspite of a copy of the counter affidavit of the B.P.S.C. having been served on learned counsel for the petitioner, no affidavit in response has been filed contradicting the said statement.

20. It may also be noted that so far as the statement with respect to the petitioner having obtained 514 marks and the cut off marks in the petitioner's category being 513 is concerned, the said statement made in the writ petition is conveniently vague in so far as it does not state that the cut off marks of 513 is with respect to a person selected against any of the four posts wherein the petitioner was an applicant. It may be stated here that a person of the petitioner's category [unreserved(female)] for the remaining 15 posts wherein the petitioner could not apply because of being over age, if such a person has obtained 513 marks and has got selected, the same is not relevant for the purpose of the petitioner's case.

21. The petitioner filed an interlocutory application



(I.A. no.1 of 2025) seeking permission to place additional documents/RTI reply etc. along with the judgments of this Court as also the Hon'ble Supreme Court in support of the petitioner's contention on record. The said application was allowed by order dated 27.1.2026.

22. It may be observed here that without there being any pleading whatsoever, referring to the letter dated 13.2.2025 of the Public Information Officer, B.P.S.C. addressed to the petitioner, learned Advocate for the petitioner tried to contend that inspite of one Shruti Sujan having given her 20th preference for the post of BSCW, she got the same whereas the petitioner did not. Learned counsel for the petitioner has again tried to raise the same in his written submissions.

23. It may be stated here that in absence of the pleadings, no evidence by way of annexure can be considered. In this context, reference may be made to the judgments of the Hon'ble Supreme Court in the case of *Ram Sarup Gupta (Dead) by LRs vs. Bishun Narain Inter College and others*; (1987) 2 SCC 555, *Bharat Singh & Ors. vs. State of Haryana & Ors.* (1988) 4 SCC 534, *National Textile Corporation Limited vs. Nareshkumar Badrikumar Jagad and others*; (2011) 12 SCC 695 and *Union of India vs. Ibrahim Uddin and another*; (2012) 8



SCC 148.

24. It may nevertheless be observed here that what is relevant is not the serial number of the preference for which Shruti Sujan opted for the service of BSCW but what was her merit position in the combined merit list. At the cost of repetition, it may be stated that specific pleading of the B.P.S.C. that while the petitioner stood at merit sl. no.1650, the last selected candidate in the petitioner's category for the four posts which the petitioner had opted was placed at merit sl. no.1565, has not been contested by the petitioner.

25. The petitioner has relied on the judgments in the case of *Tej Prakash Pathak and others vs. Rajasthan High Court & others, (2025) 2 SCC 1*. Reliance has been placed particularly on paragraph nos.29 to 34 of the judgment which deals with an earlier judgment of the Hon'ble Supreme Court in the case of *K. Manjusree vs. State of Andhra Pradesh and another, (2008) 3 SCC 512*. It is submitted that 64th Combined Competitive Examination is silent on the procedure adopted for preparing the merit list. In the opinion of the Court, the facts of the said case are distinguishable and have no application in the present case. In the said case, after a select list of candidates who had qualified both in the written examination and the



interview had been prepared, the High Court took a decision to reduce the marks of the written examination from 100 to 75 and taking 25 marks for interview prepared a fresh select list. In this select list, the High Court also introduced minimum qualifying marks for the interview as a result of which the candidates who had been selected in the first select list prepared were excluded in the second list. They challenged the same in the Hon'ble Supreme Court wherein the Hon'ble Supreme Court interfered. It may only be observed that the facts of this case bears no resemblance to the judgment in the case of K. Manjusree (supra) and thus is of no assistance to the petitioner.

26. Learned counsel for the petitioner has next placed reliance on the judgment in the case of *Purushottam vs. Chairman, M.S.E.B. and another*; (1999) 6 SCC 49, *State of U.P. vs. Ram Swarup Saroj*; (2000) 3 SCC 699 and *State of Jammu and Kashmir and others vs. Sat Pal*; (2013) 11 SCC 737 to submit that if a candidate is entitled for appointment and has approached the Court in time, he cannot be deprived of the remedy because the selection list has expired during litigation.

27. It may be observed here that no interim order has been passed in favour of the petitioner. Further, the merit serial number of the petitioner being much lower to the last selected



candidate in her category for the four posts on which the petitioner is an applicant, the instant judgments are of no assistance to the petitioner till she is able to show that her position is higher than the last selected candidate in the merit list.

28. Taking into consideration the facts and circumstances of the case and specially that so far as the four posts on which the petitioner filed her application, the last selected candidate being at merit sl. no.1565 while the petitioner’s merit sl. no. stood at 1650, in the opinion of the Court, the petitioner has not made out any case for grant of any relief.

29. The Court finds no merit in the instant case.

30. The writ application is dismissed.

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	
CAV DATE	27.01.2026
Uploading Date	09.02.2026
Transmission Date	

