

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7193 of 2026**

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1. Ravi Kumar Mishra Son of Kamal Kishore Mishra, Resident of Mishrabatrahan, P.S.- Shripur, District - Gopalganj.
  2. Dilip Kumar Singh, Son of Ram Naresh Singh, Resident of Bhainsmara, P.S.- Garkh, District -Saran.
  3. Sudhakar Pandey, Son of Bharat Bhushan Pandey, Resident of Malviya Nagar Sareya ward no. 4, P.S.- Gopalganj, District - Gopalganj.
  4. Bhupesh Kumar Srivestava, Son Awdhesh Prasad Srivestava, Resident of Village- Supuali, P.S.-Sidhwaliya, District- Gopalganj.
  5. Md. Atiullah Siddiqui, Son of Jamil Ahmad Siddiqui, Resident of Village Inderwa Shakir, P.S.-Gopalganj, District - Gopalganj
  6. Rakesh Kumar Tiwari, Son Shambhu Nath Tiwari, Resident of Sareya ward no. 1, P.S.- Gopalganj, District - Gopalganj.
  7. Dilip Kumar Bhagat, Son Singhsan Bhagat, Resident of Village- Khiridh Kawlachak, P.S.- Vijaypur, District - Gopalganj.
  8. Suryamani Singh, Son of Mahendra Kumar Singh, Resident of Jorarpur, P.S.- Deepnagar, District -Nalanda.
  9. Rajani Kant Tiwari, Son of Late Kalika Tiwari, Resident of Bhathwarup, P.S.- Kuchaoikote, District Gopalganj.

.. ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary Department of Home, Department of Bihar, Patna.
2. The Bihar Public Service Commission through the Chairman, Bihar Public Service Commission, Patna.
3. The Secretary, Bihar Public Service Commission, Patna.
4. The Examination Controller, Bihar Public Service Commission, Patna.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Sanjay Sinha, Advocate       |
| For the Respondent/s | : | Mrs. Binita Singh, SC-28         |
| For the BPSC         | : | Mr. Sanjay Pandey, Advocate      |
|                      | : | Mr. Nishant Kumar Jha, Advocate  |
|                      | : | Mr. Prabhakar Pahepuri, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR**  
**ORAL JUDGMENT**

**Date : 12-05-2026**

Heard the parties.



2. The present writ petition has been filed for a direction upon the respondent Bihar Public Service Commission to fix the cut-off date for calculating maximum age limit for the post of Assistant Prosecution Officer under advertisement no. 13/2026 dated 25.02.2026, as 01.08.2019 instead of 01.08.2020 in the light of delay of almost 6 years in conducting the recruitment process.

3. The brief facts giving rise to the present writ petition are that the B.P.S.C. published an advertisement for the post of Assistant Prosecution Officer vide Advertisement No. 13 of 2026, whereby the minimum age fixed for appearing in the examination was 21 years as on 01.08.2026 and the maximum age to be considered between 01.08.2020 to 01.08.2026.

4. The learned counsel for the petitioners submits that the respondent-authorities have published the advertisement after a gap of almost 6 years, since the previous Advertisement No. 01 of 2020 was published on 06.02.2020, thereby many eligible candidates have been excluded, who were otherwise eligible to appear in the examination, however due to non-publication of the



advertisement on time, they have lost the opportunity. He further submits that in the previous Advertisement No. 01 of 2020, the candidates, who had crossed the maximum age limit between 01.08.2013 to 01.08.2019, were given relaxation, for the reason that there was no advertisement for recruitment to the said post in the past several years. He submits that due to maximum age criteria fixed by the respondent-B.P.S.C. in between 01.08.2020 to 01.08.2026, many petitioners have suffered and if, the maximum age will be considered between 01.08.2019 to 01.08.2026, many petitioners will be eligible to appear in the examination.

5. The learned counsel for the petitioners submits that the authorities concerned are duty bound to publish advertisement in each and every year and due to their inaction, the petitioners and other similarly situated candidates cannot be forced to suffer. He submits that the respondent authorities are unjustified in publishing the advertisement, mentioning the age criteria to be calculated w.e.f. 01.08.2020 to 01.08.2026, instead of 01.08.2019 to 01.08.2026. He submits that the period 2019-20 was the period of pandemic Covid-19 and taking



into consideration the said fact, while issuing advertisement for 32<sup>nd</sup> Bihar Judicial Service Competitive Examination (Civil Judge Junior Division), the maximum age was fixed at 01.08.2019.

6. The learned counsel for the petitioner finally submits that the doctrine of legitimate expectation also suggests that a competitive examination should always be conducted as and when vacancies are created and if, due to some reasons vacancies are accumulated, period of age should be so considered to cover the candidates, who failed to appear in the examination due to non-publication of the posts. Therefore, the respondent authorities are duty bound to consider the cases of the candidates, who have attained the age between 01.08.2019 to 01.08.2026, by giving them reasonable opportunity to apply for the post.

7. Per contra, the learned counsel appearing on behalf of the Bihar Public Service Commission submits that it is the prerogative of the Commission to fix the age criteria and other criteria for making appointment and there is no rational in fixing the date from 01.08.2019



instead of 01.08.2020, which has been fixed by the Commission.

8. The learned counsel for the respondent B.P.S.C. refers to and relies upon a judgment of the Hon'ble Supreme Court of India reported in **1997 (6) SCC 614 (Dr. Ami Lal Bhat versus State of Rajasthan & Ors)**, wherein in paragraph no.5, it has been held that the issue with regard to the fixation of the cut-off date for determining the maximum or minimum age is in the discretion of the Rule making authority or the employer, as the case may be. The cut-off date cannot be fixed with a mathematical precision and in such a manner as would avoid hardship in all conceivable cases. As soon as a cut-off date is fixed, there will be some persons who fall on the right side of the cut-off date and some persons, who will fall on the wrong side of the cut-off date. That cannot make the cut-off date, per se, arbitrary, unless the cut-off date is so wide off the mark as to make it wholly unreasonable. Hardship of candidates will not make statutory provisions illegal, capricious and arbitrary.

9. Learned counsel for the B.P.S.C. further refers to and relies upon a judgment of the Hon'ble Division



Bench of this Court **dated 29.04.2026** in **C.W.J.C. No. 6500 of 2026 (Kiran Kumari Versus the State of Bihar & Ors.)**, wherein the Hon'ble Division Bench after taking note of the case of *Dr. Ami Lal Bhat (supra)* in paragraph no. 9 proceeded to record as under:-

“9. *In view of the discussions, aforementioned and the reliance placed by the learned Senior Advocate for the petitioner, upon the letter no. 212 dated 23.01.2006 issued by the Department of Personnel and Administrative Reforms, Government of Bihar, in the opinion of this Court, shall not be interpreted in any other manner, except in consonance with Rules, 1955, specially Rule 6(a) thereof. Any interpretation of the letter dated 23.01.2006 contrary to the statutory rule is not permissible. The captioned advertisement, especially clause 3 thereof fixing the maximum age limit and its cut-off date is in conformity with the prescription of rules, noted hereinabove.*”

10. Having heard the learned counsel for the parties and after going through the records, it appears that the petitioners have filed the writ petition for grant of relaxation of one year, making them eligible for making application for the post of Assistant Prosecution Officer in terms of Advertisement No. 13 of 2026. However,



taking into consideration the judgment passed by the Hon’ble Division Bench of this Court in the case of ***Kiran Kumari (supra)*** and the Hon’ble Supreme Court of India in the case of ***Dr. Ami Lal Bhat (supra)***, this Court is of the opinion that the issue with regard to the fixation of cut-off date for determining the maximum or minimum age, is in the discretion/domain of rule making authority or the employer, as the case may be.

11. Accordingly, the present writ petition is dismissed.

12. Pending application, if any, shall also stands disposed of.

**(Ritesh Kumar, J)**

AjayMishra/-

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