

406

IN THE HIGH COURT OF JUDICATURE AT PATNA

CWJC No.13898 of 2008

- (1) BIRENDRA KUMAR, son of Shri Brahmdeo Prasad, resident of Village-Paingri, P.S.Waraisaligang, Dist-Nawada (Bihar)
- (2) Manoj Kumar Singh, son of Sri Anirudh Prasad Singh, resident of Village-Bhalluahin, P.S. Garhnokh, Dist-Rohtas (Sasaram) Bihar.
- (3) Pravin Kumar Sinha, son of Sri Anjani Kumar Sinha, resident of village-Chandmari, P.S.Motihari, Dist-East Champaran, Bihar
- (4) Awadhesh Pratap, son of late Girija Prasad Shrivastava resident of Villa- Sulhantara (Jagdishpur) P.S. Sammanpur, Dist-Ambekdarnagar (U.P).
- (5) Saneev Ranjan, son of Sri Baidyanath Prasad Gupata, resident of Mohalla-Sahyogpuri, P.S. Patrakar Nagar
- (6) Dipak Kumar, son of late Ramchandra Thakur, resident of Mohalla-Hazipur, P.S.Khagaria, Dist-Khagaria (Bihar)
- (7) Ramesh Kr.Raman, son of Sri Ram Bachan Paswan, Resident of Mohalla-Sapulahganj, P.S. Sasaram, Dist-Rohtas (Bihar)

Versus

- (1) THE STATE OF BIHAR
- (2) Principal Secretary, Department of Home, Government of Bihar, Old Secretariat, Patna.
- (3) Director, Directorate of Prosecution, Bihar, Patna, Riding Road, Sheikhpura Patna.
- (4) Chairman, Bihar Public Service Commission, Bailey Road, Patna
- (5) Bihar Public Service Commission through its secretary, Bailey Road, Patna
- (6) The Registrar General, High Court of Judicature at Patna.
- (7) Principal Secretary, Department of Finance, Govt. of Bihar, old Secretariat, Patna, Bihar
- (8) Principal Secretary, Department of Personnel and Administrative Reforms, Govt of Bihar Patna..... Respondents.

with

CWJC No.14978 of 2008

- (1) VISHWA RANJAN CHOUDHARY, son of Sri Harihar Prasad Choudhary, Resident of Mohalla-Sanjay Nagar, Road No.5, P.S.Jakkanpur, in the town of and Dist-Patna (Bihar)
- (2) Manoj Kumar Singh, son of Sri Sanktha Prasad Singh, Resident of Village & P.O.Narendrapur, P.S.Andar, Dist-Siwan (Chapra) (Bihar)
- (3) Ashok Kumar Pandey, son of Sri Suresh Chandra Pandey, resident of 1115, Shiv Nagar, Allapur, Alahabad, P.O. Allapur, P.S.Kaneliganj, in the district and Town of Allahabad (U.P.)
- (4) Chandra Dhar Shukla, son of Sri Gayatri Prasad Shukla, resident of A/3 Baghmari Road, Allahpur, Allahabad, P.O-Allahpur, P.S.-Korenelganj, in the town and dist-Allahabad, (U.P.)
- (5) Hans Nath Pandey, son of Sri Ram Chanra Pandey, resident of 265, old Mamfordganj, Allahabad, P.S.Korenelganj, in the Town and Dist-Allahabad (U.P.).

(405)

- (6) Ramesh Kumar Lal Srivastava, son of Sri Late Bhiarilal Srivastava, resident of Mohalla-Fazalkanj, Phula Niwas, P.O. & P.S.-Sasaram, Dist-Rohtas (Bihar)
- (7) Chandra Kumar Singh, son of Sri Sripati Singh, resident of Village-Hissamuddinpur, P.O. Koilasa, P.S. Kaptanganj, Dist-Azamgarh (U.P.)
- (8) Umesh Prasad Sahu, son of Bhola Prasad Sahu, resident of Village-Kathari, P.O. Mohabba P.S-Kamal, Dist-Begusarai, Bihar
- (9) Asim Kumar Mishra, Son of Sri Pran Mohan Mishra, resident of Mohalla-Dhirachak (Bengoli Colony), P.O.-Anisabad, Patna-2, P.S. Gardanibagh, in the town and District of Patna (Bihar).

Versus

- (1) THE STATE OF BIHAR
- (2) Principal Secretary, Department of Home, Government of Bihar, Old Secretariat, Patna.
- (3) Director, Directorate of Prosecution, Bihar, Patna, Riding Road, Sheikhpura Patna
- 4) Chairman, Bihar Public Service Commission, Bailey Road, Patna
- (5) Bihar Public Service Commission through its secretary, Bailey Road, Patna
- 6) The Registrar General, High Court of Judicature at Patna.
- (7) Principal Secretary, Department of Finance, Govt. of Bihar, old Secretariat, Patna, Bihar
- (8) Principal Secretary, Department of Personnel and Administrative Reforms, Govt of Bihar Patna..... Respondents.

For petitioners in CWJC No.13898/2008:-Mr.Anjani Kumar, Adv
 For the State :-Mr. Piyush Lall, JC to AAG-III
 For the BPSC:-Mrs. Nilu Agrawal, Adv
 Mr. Sanjay Kumar @ Sanju, Adv

For petitioners in CWJC No.14978/2008:-Mr.Anjani Kumar, Adv
 For the State:- JC to AAG-III
 For the BPSC:-Mr. Sanjay Pandey, Adv.

2/ 20-Oct-08

Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for Bihar Public Service Commission (BPSC).

Even according to corrigendum in respect of vacancies contained in Annexure-2

404

dated 14.11.1996 the number of vacancies for the Advertisement No.2/1996 for appointment to the post of Assistant Public Prosecutor/Assistant Prosecution Officer was only 246. The regular interviews were held between 16.6.1998 to 25.6.1998 in which petitioners also participated and thereafter they could not be appointed in view of the marks obtained by them and others.

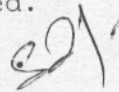
The plea of the petitioners is that for some reason one candidate was allowed to be interviewed by the BPSC on 14.2.2004 and by that date, as per information available with the petitioners there were 128 further vacancies in the concerned post. Petitioners want a direction from this Court to treat the petitioners as selected candidates and to appoint them against subsequent vacancies which appear to be 128 in number. The plea is that vacancies available till the date of interview can be filled up on the basis of interview held.

To find out a cutoff date for filling up available vacancies is an exercise which can be undertaken by the employer only when the vacancies are not advertised. In this case the vacancies were already advertised as appears

403

from the corrigendum also. Further, one or the other candidate may have to be interviewed after many years in order to rectify a mistake by the selecting authority but only on that account the vacancies available till such belated interview cannot be treated to be available to a particular set of candidates who applied long back and the transaction of interview for whom was also closed long back. The wholesome principle of Article-14 and 16 also warrant that subsequent vacancies should be available to persons who became eligible later on and should not be given as a favour to applicants who might have applied several years back. A contrary practice would violate Article-14 and 16 of the Constitution of India.

For the aforesaid reasons this Court finds no merit in these two writ petitions. Hence they are dismissed.



(Shiva Kirti Singh, J.)

perwez

SC
Main
Secretary
22.10.2008