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**(2001) 01 PAT CK 0039**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 8261 of 1993**

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| Haribansh Narayan and Others | Vs | APPELLANT  |
| State of Bihar and Others    |    | RESPONDENT |

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**Date of Decision :** 10-01-2001

**Acts Referred:**

**Citation :** (2001) 1 BLJR 456 : (2001) 1 PLJR 649

**Hon'ble Judges :** Aftab Alam, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Aftab Alam, J.—The four petitioners before this Court are members of the Bihar Administrative Service who were appointed on the basis of the 23rd Combined Competitive Examination held by the Bihar Public Service Commission in the year 1975. They dispute the date assigned to them for entering the cadre of Deputy Collector. Earlier, the petitioners were given 1.12.1977 as their date of entry in the cadre of Deputy Collector, later by notification, dated 5.9.1999 (Annexure-1), their date of entry was advanced to 1.4.1977. According to the petitioners, however, their correct date of entry in the cadre of Deputy Collector should be 1.4.1976 and not 1.4.1977 as assigned to them by the impugned notification.

2. The claim of the petitioners would appear to be quite misconceived and untenable only if one takes into account a few dates. The advertisement for the 23rd Combined Competitive Examination was issued on 16.6.1974. The examination was held in January 1975 and on the basis of the recommendations made by the Bihar Public Service Commission, petitioners 1, 2 and 3 were appointed by notification, dated 3.9.1976 and petitioner No. 4 by notification issued on 2.3.1977. In other words, the petitioners claim entry in the cadre of Deputy Collector even before the date of their actual appointment in Government Service. Such a claim obviously cannot be upheld by any logic.

3. In fairness to the petitioners, however, this Court must also record the basis

on which their claim rests before throwing out their writ petition.

4. It is pointed out on behalf of the petitioners that while the recruitment process for the 23rd batch was in progress, the State Government by its resolution, dated 24.3.1974 took the decision to merge the cadres of Sub-Deputy Collector and Deputy Collector. In that resolution it was stipulated that following the merger of the two cadres w.e.f. 1.4.1974, those working on the posts of Sub Deputy Collector would be adjusted against the vacancies in the cadre of Deputy Collectors in three phases beginning from 1.4.1974 and concluding on 1.4.1976. It is further pointed out that a few years before the appointment of the petitioners, an ad hoc batch of Sub-Deputy Collectors was appointed on the basis of an examination held on 25.3.1973. The appointment notification of the ad hoc batch of Sub-Deputy Collectors was issued on 30.5.1974. Following the merger of the two cadres when the question arose regarding the date of entry in the cadre of Deputy Collectors for the members of the ad hoc batch and the members of the 23rd batch (to which the petitioners belong) the Government initially took the decision to assign 1.12.1977 as the date of entry in the cadre of Deputy Collectors both for the ad hoc batch and the 23rd batch. The members of the ad hoc batch then filed a writ petition before this Court being CWJC No. 2358 of 1981 challenging the date of entry assigned to them and claiming a much earlier date for their entry in the cadre of Deputy Collectors. That writ petition was allowed with a direction to the State Government to assign the ad hoc batch 1.4.1976 as the date of their entry in the cadre of deputy Collectors.

5. Mr. R.N. Mukhopadhaya, earned Counsel for the petitioners sought to derive some support for the present petitioners from the aforesaid judgment. In my view, the judgment in the case of the ad hoc batch of Sub-Deputy Collectors is of no avail to the present petitioners. In that case the judgment of this Court was based on the premise that the members of the ad hoc batch were appointed as temporary Sub-Deputy Collectors exactly like the members of other regular batches such as the 22nd, the 23rd and or 24th batch and the members of the ad hoc batch who had joined the service as temporary Deputy Collectors in May 1974 itself could not be denied the benefit of their past service for the period May 30.1974 to November 30, 1977 on the ground that was an ad hoc batch and not a regular batch. The case of the petitioners is entirely distinguishable. As noted above, the petitioners joined the service much later than 1.4.1976, the date from which they are claiming entry in the cadre of Deputy Collectors.

6. At this stage, Mr. R.N. Mukhopadhaya slightly modified the prayer and submitted that the petitioners may at least be allowed entry in the cadre of Deputy Collectors from the respective dates they actually joined as Sub-Deputy Collectors (i.e. 3.9.1976 in the case of petitioners 1, 2 and 3 and 2.3.1977 in the case of petitioner No. 4.). The submission is based on the premise that by virtue of the Government resolution, dated 24.3.1974 the cadre of Sub-Deputy Collectors came to an end on 16.3.1976.

7. I find that even this relief cannot be granted to the petitioners as it is based

on a premise which is factually incorrect. In the counter-affidavit filed on behalf of the State, it is stated that notwithstanding the resolution, dated 24.3.1974 in reality, the cadre of Sub-Deputy Collectors remained in existence till 31.3.1977 and hence, the members of the 23rd batch (to which the petitioners belong were given 1.4.1977 as their date of entry in the cadre of Deputy Collectors. The relevant averments in this regard are made in para 10 of the counter-affidavit filed on behalf of the State which are as follows:

Their cases for shifting back the date of their merger was examined by the Government and it was decided that the cadre of Sub-Deputy Collectors existed till 1.4.1977 and therefore, they being made Dy. Collectors prior to 1.4.1977 should not arise. A press-note was issued by Personnel Department vide No. 4226 dated 23.3.1974 which laid down that the cadre of Bihar Junior Civil Service be completely abolished after 31.3.1977. This shows that the cadre of Sub Deputy Collectors existed till 31.3.1977. On this ground, the petitioner and others recruited from 23rd Combined Competitive Examination were made Dy. Collectors w.e.f. 1.4.1977.

8. On hearing counsel for the parties and on going through the writ petition and the counter-affidavit, I find no infirmity in the action of the State Government in giving the petitioners 1.4.1977 as the date of their entry in the cadre of Deputy Collectors and in my considered view no relief can be granted to the petitioners. This writ petition is accordingly dismissed.