

(2018) 08 PAT CK 0072

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No 7290 of 2014

Md. Maksood Alam & Ors

APPELLANT

Vs

State of Bihar & Ors

RESPONDENT

Date of Decision : 07-08-2018

Acts Referred:

Citation : (2018) 08 PAT CK 0072

Hon'ble Judges : MADHURESH PRASAD, J

Bench : Single Bench

Advocate : Md Helal Ahmad, Archana Meenakshee, Karandeep Kumar

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioners, respondent-State as also the private respondents.

2 Petitioners have moved this Court seeking a direction for appointment against Group D Post by submitting that juniors to them have been selected

pursuant to the selection process conducted under the Advertisement of 2013. The petitioners have staked their claim by stating that juniors to them,

details of which have been mentioned in the writ petition at paragraph 10, have been empanelled and appointed in the process undertaken ignoring the

petitionersâ?? claim that they are senior to them. They have also challenged the process, by relying upon the Bihar Group D (Appointment and

Service Conditions) Rules, 2010 as amended uptill the amended Rule of 2012, to submit that though some of the candidates were not possessing

requisite qualification of Matriculation, they have been appointed.

3 The specific assertion regarding the petitionersâ?? case being superior by virtue of seniority has been denied by the respondent-State in the counter

affidavit. The specific case is that none, junior to the petitioners have been empanelled or appointed.

This factual position has not been controverted by the petitioners by filing any rejoinder. Further, attention of the Court has been drawn towards two

orders passed in favour of the private respondents whose selection the petitioners have challenged.

4 Under order dated 03.10.2001 passed by this Court in CWJC No 8827 of 2000 wherein all the private respondents were parties, this Court has been

pleased to grant the petitionersâ?? relaxation in age in a process for selection keeping in view the fact that they have been working since long on

daily wages.

5 Having failed to obtain the appointment pursuant to such relaxation, the private respondents, thereafter, filed CWJC No 4051 of 2009. The same

was disposed of by order dated 16.12.2013. This Court in the second writ petition, filed by the private respondents, has been pleased to observe as

follows:

â??In my view, as the name of the petitioners figured in the final panel, the eligibility as prescribed at the time of empanelment in the year 1999, 2000

would be valid so far as petitioners are concerned. The advertisement issued at the relevant time did not prescribe Matriculation as necessary

qualification for regularization to Class IV post. The change in educational qualification would not affect the petitionersâ?? case as they would be

guided by the earlier advertisement itself. The respondents would examine the case of the petitioners afresh in light of the earlier order dated

03.10.2001 passed in CWJC No 8827 of 2000 and CWJC No 4408 of 2001 within four months from the date of receipt/production of a copy of this

order.â??

6 In view of such conclusion of this Court on the petitionersâ?? second writ petition, the requirement of having a Matriculation, was also relaxed by

this Court in favour of the private respondents. Both the orders are confined to the petitioners in the said writ petitions. Petitioners herein are,

admittedly, not parties to those proceedings.

7 For the reasons stated hereinabove, the selection/regularization/appointment of the private respondents cannot be faulted with. In view of the

specific uncontroverted stand that none, junior to the petitioners have been

empanelled or appointed, petitioners can claim no right to be considered.

8 The writ petition is devoid of any merit and the same is dismissed.