

(2016) 07 PAT CK 0061

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1615 of 2016

Reshami Rays

APPELLANT

Vs

Bihar State Power (Holding) Company Limited

RESPONDENT

Date of Decision : 12-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 PLJR 683

Hon'ble Judges : Mr. Samarendra Pratap Singh, J.

Bench : Single Bench

Advocate : Mr. Rajendra Prasad Singh, Senior Advocate Mr. Rajeev Kumar Singh, Advocate, for the Petitioners; Mr. Vinay Kirti Singh, Advocate, for the Respondents

Final Decision : Disposed Off

Judgement

Mr. Samarendra Pratap Singh, J. (Oral) - The petitioners pray for quashing the order of termination/cancellation of their appointment displayed on Company's website on 30.12.2015 with respect to Employment notice no. 2 of 2015 and 3 of 2015 (internal). They further seek direction to the respondents to consider their service to be continuous service in terms of Employment notice no. 2 of 2015.

2. Petitioners have also filed I.A. No.2842 of 2016 for quashing Employment notice no.3 of 2016, published under the signature of OSD(HR/Adm.) of Bihar State Power (Holding) Company Limited, inviting application a fresh for appointment on the post to which they were selected/provisionally appointed. Petitioners have also prayed for stay of Employment notice no.3 of 2016 until disposal of the writ petition.

3. Facts of the case, giving rise to the instant case, in short are as follows :-

An employment notice was published on website of respondents bearing Employment notice no.2 of 2015 calling upon the eligible candidates to make an application along with all relevant documents with respect to their qualification, experience etc. for the post of (a) Chief Data Base Administrator (b) Data Base

Administrator and (c) IT Manager. Candidates were required 80% marks in written examination and 20% marks in experience. 12 marks were to be given for three years experience and 20 marks were to be given for possessing experience of more than three years. A copy of the notice is contained in Annexure 2.

4. On completion of selection process, petitioners were selected and their names figured amongst successful candidates on the website of respondents. Petitioners were asked to join on 13.8.2015. On 8.8.2015, another notice came on website of respondents that it has again decided to verify the experience certificate along with Salary statement/salary slip of concerned period of experience/bank statement regarding payment of salary/remuneration by the Company/Institute. The last date fixed was 8.9.2015 for submission of documents. On 13.8.2015, another Employment Notice No.2 of 2015 was published on the website of the respondents, in which roll number of selected candidates, names and year of experience were given. It is the case of the petitioners that as they did not have any option, so they again submitted to the call of the respondents. However, when the process of verification was still going on, respondents have cancelled Employment notice no.2 of 2015, which tantamount to cancellation of selection of the petitioners. After cancellation of employment notice No. 2 of 2015, respondents issued Employment notice no.3 of 2016 for starting process of selection afresh. A copy of the notice is Annexure 9 to the IA No. 2842 of 2016.

5. Counter affidavit has been filed on behalf of respondents. Their case is that in course of verification, the Power Holding Company received a large number of complaints through mail, complaining about experience or status of the institutions from where experience certificates had been obtained which also lacks signatures/photographs etc.

6. The petitioners agree that merely because certificates of some of the candidates were found to be dubious and not from valid institutes, the selection of all the candidates including the petitioners who had valid experience certificates from recognised institutions, ought not to have been cancelled.

7. It is not in dispute that a similar matter came up for hearing before this Court in C.W.J.C. No. 3836 of 2016 (Yogesh Ranjan and another v. The Bihar State Power (Holding) Company Ltd. and others) which was disposed of on 26.5.2016. The learned Single judge after considering the case of parties declined to interfere with the cancellation of Employment Notice No.2 of 2015 and issuance of fresh advertisement bearing Employment Notice No.3 of 2016 for the same posts. While disposing of the writ petition, learned Judge has observed as follows :-

"11. So far as the present case is concerned, if the respondent-Bihar State Power (Holding) Company Ltd. experienced what they did in the process of selection of I.T. Managers and now there are adequate materials on record as to the reasons for inviting fresh applications for the post of I.T. Managers, which in the opinion

of the Court are cogent and valid, the Court will not compel the Company to go ahead with the earlier exercise and be saddled with all kinds of persons who may not be desirable to be selected keeping in mind the objective and importance of the post"

8. As the relief sought by the petitioners of that case are similar to the prayer of the instant petitioners, this writ petition is also disposed of in terms of order dated 26.5.2016, passed in C.W.J.C. No. 3836 of 2016.