

(2022) 01 PAT CK 0033

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 12607 Of 2017, 2454, 5124 Of 2018

Rakesh Kumar

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Jan. 11, 2022

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J

Bench: Division Bench

Advocate: P.K. Shahi, Mukesh Kumar No-1, Kumar Kaushik, Lalit Kishore, Y.V. Giri, Santosh Kumar, Niranjana Kumar, Sanjay Pandey, Arvind Kumar Singh, Pranav Kumar, Sumit Kumar Jha, Ashok Kumar Pathak, Mrigank Mauli

Final Decision: Disposed Of

Judgement

Petitioners have prayed for the following relief(s):-

1. That this application is being filed for issuance of an appropriate writ/writs, order/orders, Direction/Directions to declare the Rule (Annexure-2)

framed by the Agricultural Department Govt. of Bihar vide Notification No.-1/AG-46/2008 4674 dated 14.10.2014, to be ultra vires being violative of

Article 14 of the Constitution of India in as much as the said Rule has ignored to include policy decision of the State Govt as contained in the

SANKALP(Resolution) of the Administrative Department Govt. of Bihar vide Memo No.-802S dated 21.05.2013 whereas other department has

incorporated the said policy decision of the state Govt. by allowing weightage of Past service while considering regular appointment of their

Respective Post. Some of Such Department like Animal Husbandry, Health Department etc. Even Agriculture Department while framing the Rule for

regular Appointment of Agriculture Co-ordinator where weightage of Past service has been allowed in Regular Appointment.

Thus Respondents have acted arbitrary, unreasonably and having discriminated violating the Principal of Equality and shrine in Article 14 of the

Constitution of India by not incorporating the Policy Decision of the State Govt. allowing the Weightage of Past Service in instant case.

Petitioners Further Prays for issuance of appropriate Writ/writs, order/orders, Direction/Directions, commanding the Respondents to consider their

Case for their Regular Appointment to the post of Dy. Project Director by allowing Weightage in Terms of the Policy of State 1 Govt.

And also During pendency of the writ petition, further Recruitment processes In terms of advertisement No.-86/2014 may kindly be stayed, and

services of the Petitioners may kindly be extended for next financial year i.e 2018 to 2019.

And also for further issuance of any other writ/writs, order/orders, direction/directions for which the petitioners are legally entitled. -

On 06.10.2021, this court had passed the following order:

“Shri Lalit Kishore, learned Advocate General, under instructions, states that petitioners, who are to superannuate at the age of 60 years, would be

allowed to continue on the same post and status.

In this view of the matter, Shri P. K. Shahi, learned senior counsel appearing for the petitioners, states that he has no objection to the interim orders

dated 27th of March, 2018 and 13th of July, 2018 being vacated and the ongoing process of selection and appointment concluded at the earliest.

Accordingly, interim orders dated 27th of March, 2018 and 13th of July, 2018 are vacated with the direction to the respondent State to forthwith

complete the entire process of selection in accordance with law.

We are constrained to pass such order keeping in view the fact that the selection process commenced in the year 2014, was interdicted only by virtue

of the interim order(s) passed by this Court.

We request learned Advocate General to file an affidavit sworn by concerned Principal Secretary, Government of Bihar, reiterating the statement as

recorded (supra).

Ordered accordingly.

List on 08.12.2021.”

Pursuant thereto, the Secretary, Agricultural Department, Government of Bihar has filed an affidavit dated 07.10.2021, which, inter alia, reads as

under:-

3. That in continuation with the averment made in the counter affidavits/ supplementary counter affidavits filed in this case, it is humbly stated and

submitted that the Bihar Agriculture Service Category-I (Shasya) Recruitment Promotion and Service Condition Rules, 2014 has been amended vide

Notification contained in Memo No.3445, dated 25.11.2020 by Notifying Bihar Agriculture Service Category-I (Shasya) Recruitment Promotion and

Service Condition Amendment Rules, 2020 and in view of the provisions made therein, recruitment process be followed and the ongoing process of

selection and appointment be concluded at the earliest. So far as the present writ petitioners are concerned, they shall not be removed from their

respective post as contractual employees. They shall be continued till the age of 60 years / age of superannuation, decided by the State Government

for such contractual employees. They shall not be entitled to claim for any seniority or roster or any parity with the regular appointees in future.

4. That it is humbly stated and submitted that the abovementioned consideration of the Agriculture Department, Government of Bihar, Patna has been

humbly stated and submitted before this Hon'ble High Court in course of hearing of the instant case on 06.10.2021 as:

“...who are to superannuate at the age of 60 years, would be allowed to continue on the same post and status.”

In view of the same, we find the grievance of the petitioners to have been sufficiently redressed and as such, there being no surviving grievance, the

petition is disposed of accepting the statement made by the Government on record to be part of the order.

Interlocutory application, if any, shall also stand disposed of.

Re.: CWJC No. 12607 of 2017

Detagged to be heard separately.

Re.: CWJC No. 5124 of 2018

Detagged to be heard separately.