

A. III-5] In the High Court of Judicature at Patna

M.J.C.No.1969 of 1999
ORDER WITH SIGNATURE

Office notes as to action
(if any) taken on order
The State of Bihar & ors.

Date of
Order

Hardayal Kumar and ors. vrs. The

27.6.2000.

According to the counsel for the petitioners, the B.P.S.C. has already made recommendation of 170 candidates in different departments, including 61 posts of Health Educator, but the order of appointments have not yet been issued.

Further, according to the counsel for the petitioners in terms with requisition, the B.P.S.C. is required to make further recommendation of 191, including 29 posts of Health Educator of which a separate chart handed over to Mr.Tiwary, the counsel for the B.P.S.C.

In the facts and circumstances, instead of further order, I direct the authorities to conclude the matter, if not yet concluded within two months. The petitioners may bring this order to the notice of the competent authorities, who are to issue recommendation and/or are required to issue orders of appointment.

This application stands disposed of.

Let a copy of this order be handed over to the learned S.C.3 and Mr.Tiwary, the counsel for the B.P.S.C.

Sd/- S.J. Mukhopadhyay.



CERTIFIED TO BE TRUE PHOTO COPY
For the Registrar
High Court
Patna
20.7.2000

IN THE HIGH COURT OF JUDICATURE AT PATNA

M.J.C.No.1969 of 1999.

Hridayal Kumar and others-Vrs-The State of Bihar & Ors.

6. 13.3.2000.

In pursuance of court's order, Mr. Mukesh Nandan Prasad, Secretary, Welfare Department, Bihar is present in the court with show cause. He states that the regulation for 75 posts of Statistical Assistants (Contract basis) will be made by 30th April 2000.

So far as qualification laid down/shown in the regulation for appointment to the post of Statistical Assistants (14 posts) of Divisional Level is concerned, explanation given relying on State Government's resolution no. 660 dated 8th February 1999, whereby and whereunder the recommendation of the 6th Pay Revision Committee/Fitment Committee accepted by the State.

In this respect, I may only bring to the notice of the officials concerned that by court's order, the posts which fall vacant prior to 31st December 1993 are to be filled-up from amongst the successful Third Graduates standard examinees, in pursuance of 1990 advertisement. The process of the selection having been started earlier and as the posts are being vacant since prior to 31st December 1993, the subsequent resolution issued on 8th December 1999 and/or any subsequent guideline for appointment can not be given effect in the matter of appointment against those posts. In this context, one may rely ^{on} Supreme Court decision in the case of Y.V. Rangaiah and others-Versus J. Sreenivasa Rao and others A.I.R. 1983 Supreme Court page 952; in the case of A.A. Calton-Versus-Director

dated 13.3.2000. 1143 and Supreme Court decision in the case of P.

Mahendron and others-Versus-State of Kamataka A.I.R.1998
Supreme Court page 405.

In the aforesaid background, the Secretary/Director,
Welfare Department, Bihar, ^{are} required to make a fresh requisition
-n within a week for appointment against those 14 posts of
Statistical Assistants, showing the qualification as was in
vogue prior to 31st December 1993/the advertisement was
issued.

The petitioners have produced a photostat copy of
memo no.9181 dated 1st November 1983 issued from Welfare
Department whereby and whereunder the qualification for
appointment to the post of Statistical Assistants has shown
to be Graduate in Economics or Statistics or Mathematics.

In absence of any other guideline, the authorities
are required to make requisition on the basis of qualification
-on as laid down in the aforesaid letter no.9181 dated 1st
November 1983 for appointment to the posts of Statistical
Assistants under the Welfare Department.

So far as one post of Block Welfare Officer is
concerned, after appointments, made against 11 posts, if any,
post is lying vacant due to non-joining of a candidate
(stated to be one post), the Welfare Department will make
immediate requisition to B.P.S.C. to fill-up such vacant
post from next below eligible candidate of the panel.

Md. D.P. Maheshwari, Health Commissioner who is present
in the court states that 258 posts of Health Educator have
already been filled-up. For rest 61 posts requisition was
been made to B.P.S.C. on 17th February 2000.

and. 6.

Dr. Onkareshwar Prasad, Director of Statistics and Evaluation, Planning and Development Department is also present in the court and states that 198 posts of Junior Statistical Assistants/Block Statistical Supervisor were vacant for which requisition made and a recommendation received from B.P.S.C. After scrutiny of document 172 persons have been appointed, as the rest 26 candidates either did not turn up for verification of the original documents or were found ineligible having no requisite qualification. For the said reason further requisitions have been made from B.P.S.C. between August 1999 and February 2000 to fill-up those 26 posts.

In the aforesaid circumstances, I direct the Director, Statistics and Evaluation to give a reminder to B.P.S.C. within two days with further direction to the Secretary, B.P.S.C. to recommend the names to the concerned officers/Department immediately.

Mr. Upendra Kumar Sinha, Secretary, Road Construction Department states that in pursuance of earlier requisition names of 15 persons were recommended but only 13 candidates turned-up, who have been appointed. For the rest 35 posts though the requisition has been made but the qualification as prescribed recently have shown therein and not the qualification as was in vogue at the time of advertisement. He states that in view of the observation and order as mentioned along, he will make fresh requisition. For rest of 35 plus 2 other non-joining vacancies (total 37 posts) showing qualification of B.Sc. with Physics, Mathematics and Biology as was in vogue at the time of advertisement, within a week.

6.

In the facts and circumstances, while I allow further time to the opposite parties, direct B.P.S.C. to act immediately on requisitions and to recommend the names of successful eligible candidates from the panel, immediately, but not later than 15th May 2000.

It is reported that after recommendation of B.P.S.C. one or other candidate did not turn up to report to join the post and/or to submit the original documents for verification. For the said reasons certain posts are lying vacant in one or other department, like Labour and Employment Department; Revenue Department and Directorate -a, Panchayati Raj. If that be so, the Secretaries/ Directors of those departments are directed to make fresh requisition to B.P.S.C. to fill-up those non-joining vacancies immediately, but not later than 15th April 2000.

The Counsel for B.P.S.C. states that the requisition to fill-up the post of Statistical Assistants of Agriculture Department and Lab Assistant in the Science and Technology Department and 3 posts of Receptionists, Home (special) Department have not yet been made. If that be so, the Secretary/competent authorities of those departments are directed to forward the same immediately, failing which they may be called to appear before the court for initiating of proceeding for contempt.

One I.A. has been filed by one Mr. Krishna Pand Rai. According to him, B.P.S.C. recommended his name for appointment to the post of Gram Panchayat Raj Supervisor under the Rural Development Department against a reserve post, for the said reason the Department is not

providing him with an order of appointment he being of general category.

If that be so, Sri Krishna Nand Rai may bring this fact to the notice of Secretary, B.P.S.C. who in his turn will take appropriate step for recommendation of name of this candidate against an appropriate post, within a fortnight.

Appearance of Mr. D.P. Maheshwari, Health Commissioner, Mr. Ankarashwar Prasad, Director of Statistics and Evaluation, Planning and Development Department, Mr. Upendra Kumar Sinha, Secretary, Road Construction Department are dispensed with.

Place this case for further orders on 23rd June 2000.

Let a copy of this order be handed over to learned S.C. III and Mr. Anil Kumar Tiwari and counsel for the B.P.S.C.



(S.J. Mukhopadhyaya, J)

U.K.

T.e.

Upendra Kumar
P.A.

16/3/2000