

Permitted

Token No → CWJC 2108/2022

C.W.J.C No 2312 of 2022

Bihar Administrative Service Association

vis

State





प्रधान महालेखाकर (ले. एवं ह.) का कार्यालय, बिहार, पटना
OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (A&E), BIHAR, PATNA

संख्या: पेन 2-
दिनांक: 9/3/22

सेवा में,

अवर सचिव,
सामान्य प्रशासन विभाग,
बिहार, पटना।

विषय: श्री अनिल कुमार सिंह महा सचिव, बिहार प्रशासनिक सेवा संघ द्वारा पुरानी पेंशन योजना का लाभ प्रदान करने हेतु माननीय उच्च न्यायालय में दायर समादेश याचिका- /2022 के संबंध में।

प्रसंग: CWJC No- /2022

महाशय,

उपर्युक्त विषय के संबंध में कहना है कि श्री अनिल कुमार सिंह महा सचिव, बिहार प्रशासनिक सेवा संघ द्वारा 46वीं एवं 47वीं बैच के तहत नियुक्त बिहार प्रशासनिक सेवा के पदाधिकारियों को पुरानी पेंशन योजना का लाभ प्रदान करने हेतु माननीय उच्च न्यायालय में समादेश याचिका- /2022 दायर की गई है। जिसमें इस कार्यालय को प्रतिवादी सं-7 बनाया गया है।

उपरोक्त मामला पूर्णतः विभाग से संबन्धित है।

अतः समादेश याचिका- /2022 के आलोक में लिए गये विभागीय निर्णय से इस कार्यालय को अवगत कराया जाय, साथ ही यदि कोई कार्रवाई इस कार्यालय द्वारा की जानी हो तो इसकी जानकारी दी जाय।

भवदीय

वरीय लेखा अधिकारी
बिहार पटना

पत्रांक-पेन-02- 2219
प्रतिलिपि-

दिनांक 9/3/22

श्री अनिल कुमार सिंह महा सचिव, बिहार प्रशासनिक सेवा संघ,
बासा भवन इनकम टैक्स गोलंबर के उत्तर
नेहरू मार्ग, पटना-800001।

सहायक लेखा अधिकारी
बिहार पटना

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

CWJC No. 2312 /2022

Bihar Administrative Service Association through its General Secretary.

.....Petitioner

Versus

The State of Bihar and othersRespondents

Subject:- Govt. Service-Others (Gazetted)

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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

CWJC No. 2312 /2022

Bihar Administrative Service Association through its General Secretary.

.....Petitioner

Versus

The State of Bihar and others

.....Respondents

SynopsisRelief Prayed for:-

For issuance of appropriate writ or writs in the nature of mandamus directing and commanding the respondent authorities to give benefit of old pension scheme under Bihar Pension Rules to the members of the petitioner association who had been appointed under 46th and 47th Batch of Bihar Administrative Service and further not to give effect to Clause 03 and Clause 06 of the Resolution No. 1964 dt. 31.08.2005 of the Finance Department, Govt. of Bihar and to lax the same with respect to them as they had been appointed under 46th and 47th Batch through advertisements published by the respondent Bihar Public Service Commission in February and November 2004 respectively, for the older vacancies of the year upto 2001-02, which was much before the cutoff date of 01.09.2005 for the new contributory pension scheme and thus, they are entitled to old pension scheme and not with the new contributory pension scheme; under which they have been brought arbitrarily and discriminately by the respondent authorities, and

For any other relief or reliefs as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Relevant date with brief facts:-

February 2004 and 5.11.2004 : Advertisement for appointment to the existing older vacancies of posts of Bihar Administrative Service, Bihar Finance Service, Bihar Education Service and Bihar Labour Service (General), Bihar Jail Service, Assistant Recruitment Officers etc. was published in the Hindi Daily Dainik Jagran , Hindustan and as well as English daily Times of India, Patna in February 2004 and 05.11.2004 respectively for 46th and 47th batch of Joint (Preliminary) Competitive Examination. Annexure-1 Series.

11.10.2005: At no point of time it was mentioned that they (selected appointees under 46th and 47th Batch) despite being appointed against old vacancies will be governed by the new contributory pension scheme made applicable with effect from 1-9-2005. Annexure-3.

27.06.2007 and 24.01.2009: The Preliminary Competitive Examination of the 46th and 47th Batch for older vacancies were held prior to May 2005(24.04.2005) and final results were published on 27.06.2007 and 24.01.2009. Annexure-2 Series

13.7.2021: Petitioner association has submitted a representation with details of facts and also the order of Hon'ble High Court dt. 03.08.2011 passed in CWJC No. 10901 of 2006 before the General Administration Department, Government of Bihar vide its Memo No. 21 dt. 13.07.2021, however, no decision has been taken and no order has been passed and still the members of petitioner association belonging to 46th and 47th batch are being deprived of their legal entitlement. **Annexure-4**
Hence the urgency of the present case.

Filed through:

Abhay Shanker Singh, 23/01/2022
Abhay Shanker Singh, Adv.

AOR No. 01994

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

CWJC No. 2312/2022

In the matter of an application under Article
226 of the Constitution of India

AND

In the matter of :-

Bihar Administrative Service Association through its General Secretary Sri
Anil Kumar, son of Late Raja Ram Singh, aged about 56 years, Male, having
its office at BASA BHAWAN, North of Income Tax Golamber, J.L. Nehru
Marg, Patna

Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar,
Patna
2. The Principal Secretary, Department of Finance, Government of Bihar,
Patna
3. The Principal Secretary, General Administration Department,
Government of Bihar, Patna
4. The Commissioner, Finance, Government of Bihar, Patna

5. The Joint Commissioner, Accounts Administration, Department of Finance, Government of Bihar, Patna
6. The Bihar State Public Service Commission through its Secretary, Jawaharlal Nehru Road, Patna
7. The Accountant General, Bihar, Patna

--- ---- Respondents

To

Hon'ble Mr. Justice Sanjay Karol, the Chief Justice of the High Court of Judicature at Patna and his companion Justices at the said Court

Humble application on behalf of the aforesaid petitioner

Most Respectfully Sheweth:

1. That the petitioner Association beseeches indulgence of this Hon'ble Court for the following relief/s:
 - (a) For issuance of appropriate writ or writs in the nature of mandamus directing and commanding the respondent authorities to give benefit of old pension scheme under Bihar Pension Rules to the members of the petitioner association who had been appointed under 46th and 47th Batch of Bihar Administrative Service and further not to give effect to Clause 03 and Clause 06 of the Resolution No. 1964 dt. 31.08.2005 of the Finance Department, Govt. of Bihar and to lax the same with respect to them as they had been appointed under 46th and 47th Batch through advertisements published by the respondent Bihar Public Service Commission in February and November 2004 respectively, for the older vacancies of the year upto 2001-02, which was much before the cutoff

date of 01.09.2005 for the new contributory pension scheme and thus, they are entitled to old pension scheme and not with the new contributory pension scheme; under which they have been brought arbitrarily and discriminately by the respondent authorities.

(b) For any other relief or reliefs as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. That the issues of seminal importance raised in this writ petition are as follows:-

- i. Whether the members of petitioner association who were appointed in pursuance to advertisements published before 01.09.2005 under 46th and 47th batch for the older vacancies, are not entitled to old pension scheme and the Resolution of the government vide No. B64 dt. 31.08.2005 is not applicable to them?
- ii. Whether the members of petitioner association appointed in 46th and 47th batch of the BPSC are being covered under new pension scheme in most mechanical, arbitrary and unreasonable manner?
- iii. Whether non-inclusion of members of petitioner association appointed in 46th and 47th batch under the old pension scheme deprive them of their right as guaranteed under Article 14, 16, 21 and 300A of the Constitution of India?

3. That it is stated that the Petitioner is an Association of Bihar State Administrative Service Officers with Registration No. 663/2003 under Societies Registration Act, 1860 and this writ petition is being filed through its General Secretary in representative capacity because the issue raised herein affects all the members of the petitioner Association; so appointed through Advertisement for 46th and 47th Joint Competitive Examinations of BPSC and is of common interest.

4. That it is stated that the advertisement for appointment to the existing older vacancies of posts of Bihar Administrative Service, Bihar Finance Service, Bihar Education Service and Bihar Labour Service (General), Bihar Jail Service, Assistant Recruitment Officers etc. was published in the Hindi Daily Dainik Jagran, Hindustan and as well as English daily Times of India, Patna in February 2004 and 05.11.2004 respectively for 46th and 47th batch of Joint (Preliminary) Competitive Examination (those appointed through this are hereinafter referred as 46th-47th batch officers).

A copy of the aforesaid advertisements published in February 2004 and 05.11.2004 are annexed as Annexure-01 Series.

5. That it is stated that the Preliminary Competitive Examination of the 46th and 47th Batch for older vacancies were held prior to May 2005 (24.05.2005) and final results were published on 27.06.2007 and 24.01.2009 respectively.

A copy of the final result of 46th and 47th batch officers so published on 27.06.2007 and 24.01.2009 by BPSC, Patna is annexed as Annexure-2 Series.

6. That in respect of the 46th and 47th Joint Competitive Examination, following facts are pertinent to be considered:

- (i) The advertisements were published by the respondent Bihar Public Service Commission in February and November 2004 respectively for the older vacancies of the year upto 2001-02, which was much before the cutoff date of 01.09.2005 for the new contributory pension scheme.
- (ii) The Preliminary Tests were held prior to May 2005.

- (iii) The requisition for Bihar Administrative Service pursuant to 47th Joint Competitive Examination were sought by the BPSC vide Letter No. Letter No. 430, dt. 06.05.2005, again much before the cutoff date of 01.09.2005 for the new contributory pension scheme.
- (iv) The appointments against the older vacancies upto 2001-02 were covered under circular no. 502 dated 2-11-2002 of the Department of Personnel and Administrative Reforms, Government of Bihar (now GAD, Government of Bihar), as is evident from Letter No. 10059, dt. 10.11.2005 issued by the Department of Personnel and Administrative Reforms, Government of Bihar (now GAD, Government of Bihar)
- (v) At no point of time it was mentioned that they (selected appointees under 46th and 47th Batch) despite being appointed against old vacancies will be governed by the new contributory pension scheme made applicable with effect from 1-9-2005.

A copy of the Letter No. 10059 dt. 10.11.2005 issued by the Department of Personnel and Administrative Reforms, Government of Bihar (now GAD, Government of Bihar) is annexed as Annexure '03' to this writ petition.

7. That it is stated that in light of aforesaid, the older vacancies of the Bihar Administrative Service for the 46th and 47th Joint Competitive Examination were notified prior to the cutoff date of 01.09.2005 relevant for the new pension scheme and the process had begun under the old rules for the older vacancies and as such the old pension scheme shall be applicable for them.

8. That it is stated that under similar circumstances, some of the Drug Inspectors who were appointed after 1-9-2005 but pursuant to old advertisement and selection process had preferred a writ petition vide CWJC No. 10901 of 2006 claiming that they would not be covered by the resolution of government regarding applicability of new pension scheme to the effect that those appointed on 01.09.2005 and thereafter, shall have to be a member of newly contributory Pension fund scheme, and they claimed to be treated to have been appointed prior to dt. 01.09.2005 for pension purpose and the Hon'ble Court allowed the writ petition vide order dt. 03.08.2011 with observation that it is well settled by now that old vacancies have to be governed by the old rules and the new rules coming into force after beginning of process of selection as per old rules, cannot be made applicable.

9. That it is stated that the petitioner association has submitted a representation with details of facts and also the order of Hon'ble High Court dt. 03.08.2011 passed in CWJC No. 10901 of 2006 before the General Administration Department, Government of Bihar vide its Memo No. 21 dt. 13.07.2021, however, no decision has been taken and no order has been passed and still the members of petitioner association belonging to 46th and 47th batch are being deprived of their legal entitlement.

A copy of the aforesaid representation contained in Memo No. 21, dt.13.07.2021 is annexed hereto as Annexure '04' to this writ petition.

10. That it is submitted that as the advertisements were brought before the cutoff date 01.09.2005 and the process of selection was initiated under old pension scheme under Bihar Pension Rules, the members of petitioner association under 46th and 47th batch, are entitled to old pension scheme.

11. That it is submitted that the delay in the process of selection on account of litigation or otherwise cannot be attributed and made detrimental for the members of 46th and 47th batch selected BASA officers and it was only due to the procedural requirements and other exigencies on part of the respondents.
12. That the action/inaction on the part of the respondents is unjust, unfair and arbitrary and as such the same is violative of Article-14 of the Constitution of India.
13. That it is submitted that the deprivation of 46th and 47th batch officers of petitioner Association from benefits of old pension scheme under Bihar Pension Rules is violative of Article 14, 16, 21 and 300A of the Constitution of India.
14. That it is stated that the petitioner has not preferred any other writ petition for the relief /s prayed herein.
15. That it is stated that the petitioner does not have alternative efficacious remedy than to prefer this writ petition.

It is, therefore, prayed that your lordships be graciously pleased to admit the application issue Rule NISI calling upon the respondents to show cause as to why the reliefs prayed for above may not be granted and upon return of the rule and on such cause as may be shown and after hearing the counsel for the parties be pleased to make the same absolute.

And / or

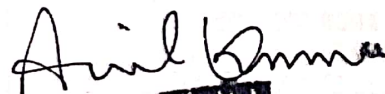
Pass such order/orders as your lordships
may deem fit and proper in the given facts
and circumstances of this case.





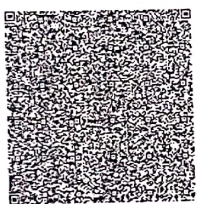

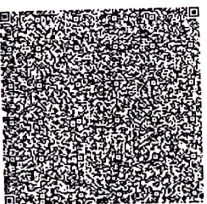
And for this the Petitioner shall ever pray.

AFFIDAVIT

I, Anil kumar aged about 56 Years, (Male), son of Late ~~Dr. Raj~~ Ram Singh, resident of Village-Sareyan Basnat, P.O – Rampur Kesho Annour P.S.– Taraiyan District –Saran, do hereby solemnly state and affirm as follows: -

1. That I am ^{General} Secretary of the Petitioner Association in ~~this~~ case and as such am well acquainted with the facts and circumstances of this case.
2. That the contents of this writ petition have been drafted under my instructions and I have read the contents thereof which I have fully understood.
3. That it is stated that the averments made under Para 3, 6P, 9P..... and..... 14..... are true to the best of my knowledge and under Para 4, 5, 6P, 7P, 8, and 9P..... are true to best of my information and the rest are by way of submission before the Hon'ble Court.
4. That the annexure/annexures are true copy of the original's copy.


 महासचिव
 विहार प्रजासैनिक सेवा संघ
 विहार, पटना

  <p>भारत सरकार Government of India</p>	  <p>भारत सरकार Government of India</p>
<p>भारत सरकार Government of India</p>	<p>सूचना</p>
<p>भारतीय विशिष्ट पहचान प्राधिकरण Unique Identification Authority of India</p>	<p>■ आधार पहचान का प्रमाण है, नागरिकता का नहीं। ■ सुरक्षित QR कोड / ऑफलाइन XML / ऑनलाइन ऑथेंटिकेशन से पहचान प्रमाणित करें। ■ यह एक इलेक्ट्रॉनिक प्रक्रिया द्वारा बना हुआ पत्र है।</p>
<p>नामांकन क्रम/ Enrolment No.: 1424/23125/01013</p>	<p>INFORMATION</p>
<p>To अनिल कुमार Anil Kumar S/O: Rajaram Singh Sareyan Basant Rampur Kesho Amnour Saran Bihar - 841401 9431409463</p> <p>Download Date: 21/01/2020</p>	<p>■ Aadhaar is a proof of identity, not of citizenship. ■ Verify identity using Secure QR Code/ Offline XML/ Online Authentication. ■ This is electronically generated letter.</p>
<p>Issue Date: 31/08/2014</p> <p>Signature Not Verified</p> 	<p>■ आधार देश भर में मान्य है। ■ आधार कई सरकारी और गैर सरकारी सेवाओं को पाना आसान बनाता है। ■ आधार में मोबाइल नंबर और ईमेल ID अपडेट रखें। ■ आधार को अपने स्मार्ट फोन पर रखें, mAadhaar App के साथ।</p> <p>■ Aadhaar is valid throughout the country. ■ Aadhaar helps you avail various Government and non-Government services easily. ■ Keep your mobile number & email ID updated in Aadhaar. ■ Carry Aadhaar in your smart phone – use mAadhaar App.</p>
<p>आपका आधार क्रमांक / Your Aadhaar No. : 5467 9360 6394 VID : 9109 8362 7099 7352</p> <p>मेरा आधार, मेरी पहचान</p>	<p>भारतीय विशिष्ट पहचान प्राधिकरण Unique Identification Authority of India</p>
<p>भारत सरकार Government of India</p> <p>अनिल कुमार Anil Kumar जन्म तिथि/DOB: 21/12/1965 पुरुष/ MALE</p> <p>Download Date: 21/01/2020</p>  <p>Issue Date: 31/08/2014</p> <p>5467 9360 6394 VID : 9109 8362 7099 7352</p> <p>मेरा आधार, मेरी पहचान</p>	<p>भारतीय विशिष्ट पहचान प्राधिकरण Unique Identification Authority of India</p> <p>पता: संबोधित: राजराम सिंह, सरेयां बसंत, रामपुर केशो, सारन, बिहार - 841401</p> <p>Address: S/O: Rajaram Singh, Sareyan Basant, Rampur Kesho, Saran, Bihar - 841401</p>  <p>5467 9360 6394 VID : 9109 8362 7099 7352</p>
<p>1047 help@uidai.gov.in www.uidai.gov.in</p>	<p>1047 help@uidai.gov.in www.uidai.gov.in</p>

Anil Kumar

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पञ्जाब, पञ्जाब

बिहार लोक सेवा आयोग, पटना

अधिसूचना (प्रारम्भिक) प्रतियोगिता परीक्षा... बिहार लोक सेवा आयोग, पटना... 31.01.2024

बिहार लोक सेवा आयोग, पटना

अधिसूचना (प्रारम्भिक) प्रतियोगिता परीक्षा... (अभ्यर्थक को भर्ती के लिए)...

- 1. (क) अभ्यर्थक का नाम... 2. (ख) अभ्यर्थक की जन्म तिथि... 3. (ग) जन्म स्थान... 4. (घ) पिता का नाम... 5. (ङ) पिता का पता...

बिहार लोक सेवा आयोग, पटना

- 1. अभ्यर्थक का नाम... 2. पिता का नाम... 3. जन्म तिथि... 4. जन्म स्थान... 5. पिता का नाम... 6. पिता का पता... 7. पिता का पता... 8. पिता का पता... 9. पिता का पता... 10. पिता का पता...

Certified 31/1/2020 Section Officer Bihar Public Service Commission PATNA

3.02.2024

विशेष सं० पी० टी०-४०



बिहार राजद

असाधारण अंक

बिहार सरकार द्वारा प्रकाशित

६ अप्रैल १९३९ (सं०)
 पृष्ठ सं० ५७६
 पृष्ठ सं० १७ जून २००७
 कर्मिक एवं इतराधिक मुद्दा विभाग

अभिसूचना

१३ जून २००७

सं०-१२/सि०-१००२/२००७/का०-६२००-वि०-वि० लोक सेवा आयोग की ६६वीं संयुक्त प्रतियोगिता परीक्षा के आधार पर बिहार प्रशासनिक सेवा के लिए निम्नलिखित ४२ (चत्वारिंश) अनुसूचित सम्पर्धियों की अधोलिखित जातों के अधीन वेतनमान ६५००-१०,५००/- में सरकार द्वारा समय-समय पर स्वीकृत अनुसूचित जातों के साथ औपचारिक रूप में परीक्षणकाल तक-समाप्तता के रूप में नियुक्त किया जाता है।

२. संशोधित परीक्षणकाल उप-समाप्तता को उनके काम के समय अर्द्धकालिक विज्ञापन में व्यवहारिक प्रतिक्षण हेतु बदलवापत किया जाता है :-

क्रम सं०	नाम	संयुक्त सेवा क्रमांक	आवक्य स्थिति	धर्मार्थक प्रतिक्षण हेतु कार्यरत विज्ञापन
१	२	३	४	५
१	श्री पी० शर्मा	१	सामान्य	पटना
२	श्री पी० जफर आलम	७	सामान्य	बाँका
३	श्री मारुत कुमार सिंह	१२	सामान्य	मालवा
४	श्री सुन्दर कुमार	१३	सामान्य	छपरा
५	श्री उमा शंकर प्रसाद	१४	सामान्य	पटना
६	श्री रामू शरण शर्मा	१६	सामान्य	कैमूर (मधुआ)
७	श्री संजय सिंह	१७	सामान्य	मुँगेर
८	श्री आनंद कुमार	१८	सामान्य	फरिदाबाद
९	श्री कुमार अजय	१९	सामान्य	बनारस
१०	श्री सुधीर कुमार	२०	सामान्य	मोतीपुर (आरा)
११	श्री दिवांगु कुमार	२३	सामान्य	पटना
१२	श्री राम प्रकाश राम	२३	सामान्य	पटना
१३	श्री प्रकाश शर्मा	२४	सामान्य	मन्दाला
१४	श्री पी० आनंद	२५	सामान्य	बनारस

क्रम सं०	नाम	संयुक्त सेवा प्रमाणांक	आरक्षण विधि	व्यवहारिक प्रभाग हेतु आवंटित जिला
1	2	3	4	5
15	श्रीमती विरगिणी सिंह	26	सामान्य	औरंगाबाद
16	श्री सुधर कुमार	27	सामान्य	सारण (छपरा)
17	श्री सुधीर कुमार	29	सामान्य	लखीसराय
18	श्री परमानन्द साह	30	सामान्य	गया
19	श्री मोठ आफ़ाक अहमद	31	सामान्य	गोपालगंज
20	श्री प्रभात चन्द्र	32	सामान्य	सोवाण
21	श्री विवेक	35	पिछड़ी जाति	बेछनपुर
22	श्री प्रिय रंजन राय	36	अत्यन्त पिछड़ी जाति	पश्चिम चम्पारण
23	श्री अनन्द कुमार	40	पिछड़ी जाति	मुजफ्फरपुर
24	श्री मोठ नरुल देव	43	अत्यन्त पिछड़ी जाति	सोतामदी
25	श्री मनोज कुमार पवन	45	पिछड़ी जाति	शिवहर
26	श्री विनोद कुमार	46	पिछड़ी जाति	पूर्वी चम्पारण
27	श्री मोठ राशिर हुतेन	47	अत्यन्त पिछड़ी जाति	वैशाली
28	श्री बीरेन्द्र कुमार	49	अत्यन्त पिछड़ी जाति	दरभंगा
29	श्री राजेश कुमार	51	पिछड़ी जाति	पटना
30	श्री प्रभात भूषण	53	अत्यन्त पिछड़ी जाति	मधुबनी
31	शुश्री रंजु कुमारी	56	पिछड़ी जाति महिला	सहर्सा
32	श्री शाहनवाज अहमद निगामी	57	अत्यन्त पिछड़ी जाति	समस्तीपुर
33	श्री मोठ सुनील अख्तियार	61	अत्यन्त पिछड़ी जाति	जमुई
34	श्री सुखल ठाकुर सिवान	62	अत्यन्त पिछड़ी जाति	बेगूसराय
35	श्री ब्रजेश कुमार	63	अत्यन्त पिछड़ी जाति	सुपौल
36	श्री वजेश कुमार	70	अनुसूचित जाति	मधेपुरा
37	श्री विद्यानाथ पान्त्यान	137	अनुसूचित जाति	सुर्गना
38	श्री राजवर्द्धन	169	अनुसूचित जाति	अररिया
39	श्री नीरज कुमार	187	अनुसूचित जाति	किसनगंज
40	श्री मनोज कुमार	197	अनुसूचित जाति	कटिहार
41	शुश्री प्रियदर्शिनी अग्रवालिका	199	अनुसूचित जाति	मुजफ्फरपुर
42	श्री सुधीर कुमार	206	अनुसूचित जाति	पागलपुर

उपर्युक्त औपबोधिक नियुक्तियों निम्नांकित शर्तों के अधीन की जाती है:-

(क) स्थायी/ अस्थायी पदों की चर्चा एवं पूर्ववृत्त स्थापन संबंधी कोई प्रतिकूल प्रतिवेदन प्राप्त होने पर उनकी सेवा तात्कालिक प्रभाव से निरस्त की जा सकती है।

(ख) समर्पित प्रमाण-पत्रों/ समर्पित शैक्षणिक/ अन्य प्रमाण पत्रों की समुचित में यदि कोई प्रतिकूल प्रतिवेदन प्राप्त होता है तब भी उनकी सेवा तात्कालिक प्रभाव से रद्द की जा सकती है एवं आवश्यक विधायक कार्रवाई भी की जायेगी।

(ग) औपबोधिक रूप से नियुक्त सभी परीक्षार्थी उपा-समाहर्ता अपने नाम के समस्त विलिखित जिले में पत्र संचित को एक पक्ष के अन्दर योगदान पत्रों एवं योगदान के एक प्रति कार्यात्मिक एवं प्रशासनिक सुधार विभाग को भेजें।

(घ) किसी अल्पपक्षी या अज्ञान तब तक स्वीकृत नहीं हो सकता, यदि उनके द्वारा मूल स्नातक डिग्री/समम पराधिकारी द्वारा निर्गत मान्य जाति प्रमाण-पत्र/ आयासीय प्रमाण-पत्र, जिसे रूढ़ में विभाग को समर्पित नहीं किया गया हो, संचित जिले में समर्पित करेंगे एवं संरक्षित जिला पराधिकारी का यह सक्षित होगा कि मूल प्रमाण-पत्र देखकर स्तुष्ट हो तब ही अल्पपक्षी को उपासमाहर्ता के रूप में समर्पित प्रमाण-पत्रों की अभिप्रायण छाया प्रति बंधु विभाग को उनके योगदान पत्र के साथ भेजने की सुझाव देगा।

(ङ) प्रत्येक अल्पपक्षी को उनके अभिप्रायण शैक्षणिक नियुक्ति पत्र उपलब्ध करवाया जा रहा है।

अतः अभिप्रायण शैक्षणिक नियुक्ति पत्र प्रस्तुत न किये जाने पर कोई योगदान स्वीकृत नहीं किया जा सकता।

बिहार-राज्यपाल के आदेश से,
 जयिंदर सुमहानी,
 सचिव के सचिव

पत्र संख्या-12/वि०-1018/2004का०-10059

बिहार सरकार,
कार्मिक एवं प्रशासनिक सुधार विभाग।

16

14/11/05

प्रेषक,

7A
209
14/11/2005

सेवा में,

श्री मोहन कुमार तरकार,
तरकार के उप सचिव।उप सचिव,
बिहार लोक सेवा आयोग, मटना।

मटना-15, दिनांक 10 नवम्बर, 2005.

विषय:- 47 वीं संयुक्त प्रतियोगिता परीक्षा के आधार पर बिहार
प्रशासनिक सेवा के पद पर सीधी भर्ती से नियुक्ति हेतु विधियों
की अधियाचना के संबंध में।

महाशय,

निवेदनागुण उपर्युक्त विषयक आपके पत्रांक-430 दिनांक-6-5-2005
के प्रसंग में बिहार लोक सेवा आयोग द्वारा आयोजित 47वीं संयुक्त प्रतियोगिता
परीक्षा के आधार पर सीधी भर्ती द्वारा बिहार प्रशासनिक सेवा के पद पर भरे
जानेवाले उत्तरवर्ती बिहार राज्य के लिए उपलब्ध रिक्तियों की आख्या
अधियाचना नीचे अंकित कर भेजी जा रही है:-

आरक्षित-	18	अवरहट पद
अनुपि जाति-	06	उः पद
अज्ञात पिछड़ा वर्ग-	06	उः पद
पिछड़ा वर्ग-	05	पंच पद
पिछड़ा वर्ग की महिला-	01	स्त्री पद
कुलयोग-	36	उत्तीर्ण पद

2. उपर्युक्त पदों के विषय नियुक्ति कार्मिक एवं प्रशासनिक सुधार
विभाग के परिपत्र सं०-502 दिनांक 2-11-2002 से आकाशित रहेगा।3. बिहार राज्य अधिनियम 15/2003 एवं कार्मिक एवं प्रशासनिक
सुधार विभाग के पत्रांक-72 दिनांक 13-2-2004 के आलोक में राज्य के बाहर के
अभ्यर्थियों को आरक्षण का लाभ देय नहीं होगा।4. गुणागुण के आधार पर नियुक्त आरक्षित वर्ग के अभ्यर्थियों को
गणना उनके कोटे में नहीं की जायेगी।

Certified
Section Officer
Bihar Public Service Commission
PATNA

17

: 2 : (3) 2012 लोक सेवा आयोग

आ: अनुरोध है कि उपर्युक्त कंडिका-11 में क्यावर्षित
आरक्षणवार कुल 36 [छत्तीस] अध्यापिका रिक्तियों के फिस्ट निष्पत्ति
हेतु तमन एवं योग्य अभ्यर्थियों की अनुसूता क्यावर्षीय उपलब्ध कराने की
कृपा की जाय ।

विवातभाजक

[Handwritten Signature]

सरकार के उप तय्य ।

रंगनी/

Annexure '04'

Bihar Administrative Service Association

North of Income Tax Golamber, Nehru Marg, Patna-800001

(Registration No-663/2003)

Website: basabihar.com, E-mail Id: infobasa1@gmail.com

Bank Shekhar Sinha
President

Job. No.- 9334118192



Anil Kumar
General Secretary

Mob. No.- 9431409463

18

Memo No 21

Date 13.07.2021

President
Sheezuddin
51290

Kumar
737317

Secretary
Anil Kumar
919465

Sharan
342042

asurer
Anur Tiwary
085120

reasurer
Anita Jha
881025

सेवा में,

प्रधान सचिव,
सामान्य प्रशासन विभाग,
बिहार सरकार, पटना।

विषय:- 46वीं एवं 47वीं बैच के बिहार प्रशासनिक सेवा पदाधिकारियों को पुरानी पेंशन योजना का लाभ मुहैया कराने के संबंध में।

- प्रसंग:-
- (1) CWJC No-10901/2006 मो0 कयुमुदीन अंसारी बनाम बिहार सरकार वाद में दिनांक-03.08.2011 को पारित आदेश।
 - (2) अधोहस्ताक्षरी का पत्रांक 09 दिनांक 15.01.2020 (छायाप्रति संलग्न)

महाशय,

उपर्युक्त विषय के संबंध में कहना है कि 47वीं बैच के बिहार प्रशासनिक सेवा के पदाधिकारी हैं एवं वर्तमान में बिहार सरकार के अधीन दिनांक-01.09.2005 के बाद लागू नई पेंशन योजना से आच्छादित है जबकि 47वीं बैच के पदाधिकारियों को बिहार पेंशन नियमावली 1950 के प्रावधान अर्थात् पुरानी पेंशन योजना का लाभ मिलना चाहिये जिसके निम्नलिखित आधार हैं;

2. बिहार लोक सेवा आयोग द्वारा आयोजित 47वीं बैच के बिहार प्रशासनिक सेवा के पदाधिकारियों हेतु चिन्हित रिक्तियों के विरुद्ध विज्ञापन का प्रकाशन (छायाप्रति संलग्न) 05.11.2004 को किया गया था। आवेदन समर्पित करने की अंतिम तिथि 14.12.2004 निर्धारित की गयी थी।

3. इस क्रम में दिनांक-14.12.2004 को हिन्दुस्तान दैनिक जागरण सहित अन्य समाचार पत्रों में विज्ञापन (छायाप्रति संलग्न) प्रकाशित किया गया, जिसमें उल्लिखित है कि 47वीं संयुक्त (प्रा०) प्रतियोगिता परीक्षा हेतु प्रकाशित विज्ञापन के क्रम संख्या-6 में न्यूनतम शैक्षणिक योग्यता को परिभाषित करते हुए आवेदन जमा करने की तिथि को दिनांक-31.12.2004 तक बढ़ाया गया था।

h



4. उक्त विज्ञापन के आधार पर बिहार लोक सेवा आयोग द्वारा दिनांक-24.04.2005 को 47वीं संयुक्त (प्रो) प्रतियोगिता परीक्षा आयोजित की गयी तथा इसका परीक्षा फल (छायाप्रति संलग्न) वि.लो.से. आयोग द्वारा 16.12.2008 को घोषित किया गया।

5. 47वीं संयुक्त प्रतियोगिता परीक्षा अन्तर्गत साक्षात्कार/मौखिक परीक्षा 12.01.2009 से 14.01.2009 तक आयोजित की गयी एवं अंतिम परिणाम (छायाप्रति संलग्न) 24.01.2009 को घोषित की गयी।

अतः उक्त साक्ष्य के अनुसार निम्नलिखित तथ्य परिलक्षित होते हैं;

- (क) 47वीं संयुक्त प्रतियोगिता परीक्षा का विज्ञापन वर्ष 2001 के आधार मानकर की गई है।
- (ख) 47वीं संयुक्त प्रतियोगिता हेतु प्रारम्भिक परीक्षा 24.04.2005 को आयोजित की गई है।
- (ग) 47वीं संयुक्त प्रतियोगिता परीक्षा के आधार पर बिहार प्रशासनिक सेवा हेतु अध्यायना मुख्य सचिव, बिहार लोक सेवा आयोग पटना के पत्रांक 430 दिनांक 06.05.2005 के आदेशों में की गयी है।

6. इस प्रकार स्पष्ट है कि 47वीं संयुक्त बिहार प्रतियोगिता परीक्षा हेतु बिहार प्रशासनिक सेवा के पदों की रिक्तियाँ नई पेंशन योजना अर्थात 01.09.2005 के पहले लागू नियमावली के अन्तर्गत में की गयी है। इसी प्रकार का समदृश्य मामला 46वीं बैच के पदाधिकारी का भी है।

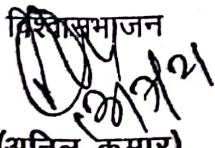
7. इसी बीच माननीय उच्च न्यायालय पटना द्वारा CWJC सं०-10901/2006 के कयामुद्दीन अंसारी एवं अन्य बनाम बिहार सरकार में दिनांक 03.08.2011 को निम्नलिखित आदेश (छायाप्रति संलग्न) पारित है;

"It is infact this aspect of matter which would clinch the issue in favour of the petitioners in as much as it is well settled by now that old vacancies have to be governed by the old rules and the new rules coming into force after beginning of process of selection as per old rules can not be made applicable."

8. उक्त न्याय निर्णय में यह स्पष्ट किया गया है कि नई पेंशन योजना लागू होने की तिथि के पूर्व नियुक्त हेतु प्रकाशित विज्ञापन के आधार पर नियुक्त किये गए पदाधिकारियों/कर्मचारियों को पुरानी पेंशन योजना से आच्छादित किया जाय।

9. अतः अनुरोध है कि उक्त न्यायादेश के आलोक में वित्त विभाग, बिहार सरकार को संकल्प सं० 1964 दिनांक 31.08.2005 की कंडिका 3 एवं कंडिका 6 में उल्लिखित प्रावधानों को धिरे धिरे एवं क्षांत करते हुए 01.09.2005 के पूर्व प्रकाशित विज्ञापन के आधार पर नियुक्त बिहार प्रशासनिक सेवा के 46वीं एवं 47वीं बैच के पदाधिकारियों को पुरानी पेंशन योजना से आच्छादित करने के लिए उचित निर्णय लेने की कृपा की जाय।

अनुलग्नक:-यथोपरि।

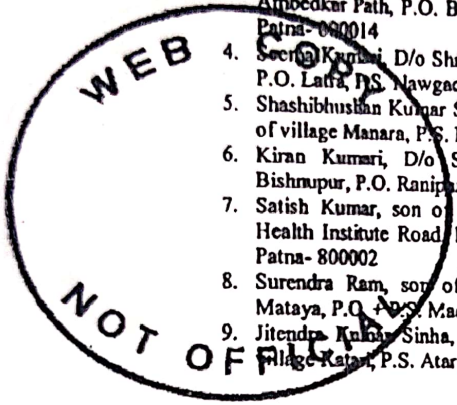
विश्वासभाजन

(अनिल कुमार)
महासचिव

विश्वासभाजन

(शशांक शंखर शुक्ला)
अध्यक्ष

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL WRIT JURISDICTION CASE No.10901 of 2006**

1. Md.Kayumuddin Ansari, son of Shri Rahmat Ali Ansari, resident of Latif Market, Chokhandi Road, P.S. Sasaram, Sasaram
2. Krishna Kumari, D/o Shri Ramji Prasad Gupta, resident of village Sikarhgarh Tola (L.C.T. Ghat Road), near Mishra Medical Hall, P.O. + P.S. Kahalgaon, District Bhagalpur
3. Arun Kumar, son of Shri Parasnath Prasad, resident of Khajpura Ambedkar Path, P.O. B.V.College, P.S. Shastrinagar, Bailey Road, Patna- 000014
4. Seema Kumari, D/o Shri Ajeet Kumar Yadav, resident of village + P.O. Latfa, P.S. Nawgachhiya, District Bhagalpur
5. Shashibhusan Kumar Sinha, son of Shri Janardan Prasad, resident of village Manara, P.S. Noorsarai, District Nalanda
6. Kiran Kumari, D/o Shri Jagdish Prasad, resident of village Bishrupur, P.O. Ranipur, P.S. Noorsarai, District Nalanda
7. Satish Kumar, son of Shri Jaleshwar Prasad Singh, resident of Health Institute Road, Beur, P.S. Gardaniabagh, Anisabad, District Patna- 800002
8. Surendra Ram, son of late Ramdeni Ram, resident of village Mataya, P.O. + P.S. Madhopur Ram, District Vaishali
9. Jitendra Kumar Sinha, son of Shri Rampriti Prasad, resident of village Katar, P.S. Atari, District Gaya



...
Petitioners

Versus

1. The State Of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Commissioner, Finance, Govt. of Bihar, Patna
3. The Commissioner cum Secretary, Health Services, Department of Health, Govt. of Bihar, Patna
4. The Joint Commissioner, Accounts Administration, Department of Finance, Contributory Provident Fund, Bihar, Patna
5. The Additional Secretary, Health and Family Welfare, Department, Vikash Bhawan, Patna
6. The State Drugs Controller, Directorate Health Services, Vikash Bhawan, Patna
7. The Bihar Public Service Commission, Bihar, patna, through its Secretary

...
Respondents

For the petitioners : Mr. Mithilesh Kumar Rai, Adv.

For the State : Mr. Bijay Kumar Pandey, A.C. to G.P.20

For the BPSC : Mr. Sanjay Pandey, Adv.

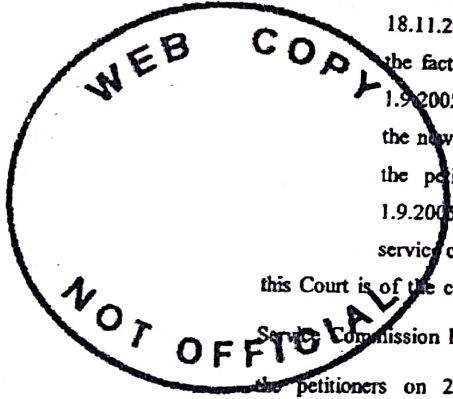
5. 3.8.2011 Having heard counsel for the parties as with regard

to the following relief:

"That this is an application for issuance of a writ in the nature of mandamus directing and commanding

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the respondent authorities not to give effect to letter no. 690 dated 3.3.2006, issued under the signature of the Joint Commissioner, Accounts Administration, Department of Finance, so far as it relates to the petitioners, which is said to have been pursuant to Gazette notification bearing No. 614 dated 18.11.2005, whereby and whereunder it speaks of the fact that the persons having been appointed on 1.9.2005 or thereafter, shall have to be a member of the newly contributory fund scheme, as also to treat the petitioner to have been appointed prior to 1.9.2005 for the purposes of application of the service condition in regard to pension."

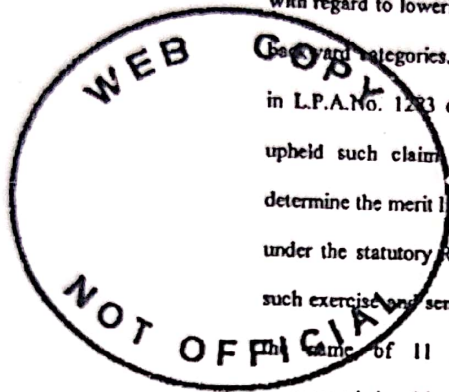


this Court is of the considered opinion that as the Bihar Public Service Commission had ultimately recommended the names of the petitioners on 25.6.2004 in continuation to the earlier recommendation of 41 candidates vide its letter No. 39 dated 12.5.2003 by making it clear that the name of the petitioners shall be placed below the 40th candidate and above 41st candidate, there should have been no difficulty for the Government to allow the benefit of old pension scheme which was prevalent at the time of appointment of the 41st candidate.

The issue in fact becomes very simple if it is taken into account that by one advertisement No. 2 of 2000 the post of Drug Inspector were advertised but when the result of the same was published in the year 2001 the petitioners were shown to have been unsuccessful in the written test, whereas the Commission had recommended the name of the other 41 persons in the year 2003 after conducting interview and preparing selection list. The

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petitioners and the similarly situated 7 persons alike the petitioners thereafter had assailed the result and recommendation of the Commission on a ground that they were illegally edged out without following the Government's own scheme and policy as with regard to lowering qualifying mark in the written test for the backward categories. This Court in its judgment dated 16.5.2002 in L.P.A.No. 1283 of 1999 and its analogous cases in fact had upheld such claim and had directed the Commission to re-determine the merit list on the basis of qualifying marks prescribed under the statutory Rules. The Commission thereafter had made such exercise and sent its recommendation on 25.6.2004 wherein the name of 11 persons including the petitioners were recommended and it was clarified that their place of seniority will be below Sl.No. 40 and above Sl.No. 41 of the earlier list dated 12th May, 2003. Consequently such recommendation of the petitioners had not only been accepted by the Government but an offer of appointment was also issued to them on 11.8.2005 communicating that the Government had already decided them to appoint on the post of Drug Inspector and as such they should give their option of three districts for their respective place of posting. While all these things had already happened, the Government had taken a decision that from 1.9.2005 any person appointed in the Government service will not be entitled to the existing policy of pension being paid to them under the Bihar Pension Rules and they would be governed by a new contributory pension scheme framed by the government. Eventually when the petitioners were



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also appointed by a notification dated 28.11.2005 they were also deprived of the benefit of pension under old policy and scheme governed by Bihar Pension Rules and they were also coerced to accept the new policy of Contributory Pension Scheme which according to them is less beneficial in comparison to the earlier scheme. It is with this grievance that this writ application has been filed that as they are senior to the persons appointed on the basis of same advertisement and selection process they cannot be prejudiced in the matter of service condition as was given to other persons including a person below them in the merit list.

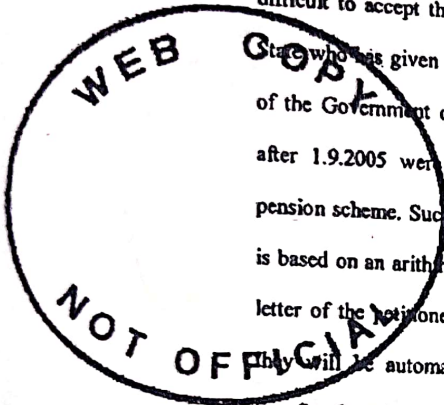
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Learned counsel for the Commission has clarified that the Commission had gone into this exercise and had made its recommendation very clear that the place of the petitioners as per roster and reservation in view of the direction given by this Court in the judgment dated 16.5.2002 in L.P.A. No. 1823 of 1999, would be below SI.No.40 of the original list and above 41 of the same list. In fact the Commission has itself placed the revised recommendation dated 25.6.2004 and Mr. Pandey, appearing on behalf of the Commission, has also very fairly produced even the earlier recommendation 12.5.2003, which has been kept on the records of this case. From the simultaneous reading of the two recommendations of the Commission dated 12th May, 2003 and 25.6.2003 it would become absolutely clear that the petitioners will be deemed to be appointee of the same transaction and barring the benefit of payment of salary for the period they had not worked on account of denial of their appointment they were entitled for all



other benefits including seniority to which were extended to other 41 Drug Inspectors appointed earlier - in view of the recommendation of Commission in its letter dated 12.5.2003.

In that view of the matter, this Court would find it difficult to accept the submission of the learned counsel for the State who has given only one explanation by way of justification of the Government decision that the petitioners being appointees after 1.9.2005 were to be governed by the new contributory pension scheme. Such submission of learned counsel for the State is based on an arithmetical calculation that since the appointment letter of the petitioners was issued after cutoff date of 1.9.2005 they will be automatically deprived from availing the earlier benefit of pension under Bihar Pension Rules which was given to the appointees of the year 2003. This Court however would fail to understand the logic of such submission, inasmuch as when the petitioners were subjected to same selection process in terms of the same advertisement and ultimately their case was recommended by the Commission in continuation of the same merit list by placing them above a person who was originally recommended and appointed, it would be difficult to accept such justification given by the State Government that the petitioners still will be deprived of the benefit of the old pension scheme because they were appointed after 1.9.2005. It was not the fault of the petitioners that the Commission and/or the Government did not follow its own policy of following its decision regarding lower qualifying marks for the candidates belonging to backward



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category and therefore, if the Government and the Commission had to be directed by this Court in the case filed by the similarly situated persons for drawing a fresh merit list, and in such merit list the name of the petitioners had figured above someone who was originally recommended, they cannot be deprived of the benefit which has been given to the originally recommended candidates.

It is in fact this aspect of the matter which would clinch the issue in favour of the petitioners inasmuch as it is well settled by now that old vacancies have to be governed by the old rules and the new Rules coming into force after beginning of process of selection as per old Rules cannot be made applicable.

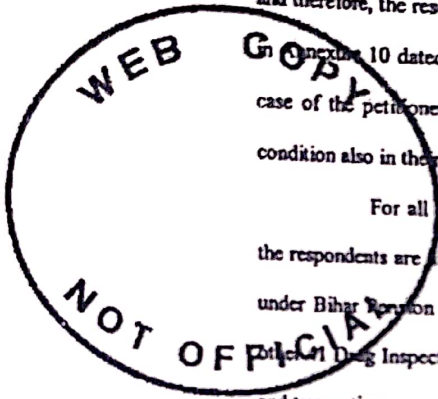
Reference in this connection may be usefully made to the judgment of Apex Court in the case of P. Mahendran Vs. State of Karnataka reported in (1990) 1 SCC 411. Moreover a right to receive pension is condition of service as has been held by the Apex Court in the case of Union of India Vs. Gurnam Singh reported in (1982) 2 SCC 314 and thus to be governed in accordance with the terms and condition of the advertisement and the existing Rules inasmuch he acquires a right to be considered for selection and appointment in accordance with the then existing Rules. This Court would accordingly hold that the petitioners being appointees of the old transaction of Advertisement No. 2 of 2000 in continuation with old appointees of 2003 will be entitled to get the benefit of old pension scheme and they will not be governed by the new Contributory Pension Fund Scheme coming

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into force w.e.f. 1.9.2005. It has to be also kept in mind that even the original appointment letter issued on 26.11.2005 to the petitioners, did not contain any clause and/or condition that they will be governed by the new Contributory Pension Fund Scheme and therefore, the resolution of the Finance Department, contained in Annexure 10 dated 1.9.2005, cannot be made applicable in the case of the petitioners as it was not made part of their service condition also in their appointment letter.

For all these reasons, this application is allowed and the respondents are directed to give benefit of old pension scheme under Bihar Pension Rules to the petitioners as was extended to other Drug Inspectors appointed out of the same advertisement and transaction.



(Mihir Kumar Jha, J.)

Surendra/