

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.19221 of 2018**

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1. Md. Shamser Son of Samsujoha, resident of Village- Barhpura, Uttar Tola, P.O.- Barhpura, P.S.- Ishachak, District- Bhagalpur.
  2. Uttam Kumar, Son of Bishundeo Mandal, resident of G.P. Verma Tola, Mundichak, P.S. Kotwali, District- Bhagalpur.
  3. Rajiv Kumar Karn, Son of Bhavesh Prasad Karn, resident of Mohalla- Sikandarpur, P.S.- Mojahidpur, District- Bhagalpur.
  4. Mumtaj Ali, Son of Late Md. Umaid Ali, resident of Maulana Chak, P.S. Mojahidpur, District- Bhagalpur.
  5. Md. Firoj Ansari, Son of Md. Fahim, resident of Mohalla- Bhikhanpur, Gumti No. 3, Near Madina Masjid, P.S. Ishakchak, District- Bhagalpur.
  6. Md. Perwez, Son of Md. Shamsu Joha, resident of Mohalla- Barhmpura, Uttar Tola, P.S.- Ishakchak, District- Bhagalpur.
  7. Md. Razi, Son of Md. Shafi Ahmad, resident of Brahmpura, Chandani Chowk, P.S. Ishakchak, District- Bhagalpur.
  8. Abhay Kumar Sinha, Son of Sri Rajendra Prasad, resident of Village- Saraun, P.S. Tarapur, District- Munger.
  9. Ajay Kumar Sinha, Son of Sri Rajendra Prasad, resident of Village- Tahbalpur, Khanta Kinara, P.S. Lodipur, District- Bhagalpur, At present residing at Saraun, P.O. Asarganj, District- Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Personal and Administrative Reforms Old Secretariat, Government of Bihar, Patna.
2. The Divisional Commissioner, Bhagalpur.
3. The Deputy Director (BSH), Bhagalpur.
4. The District Magistrate, Bhagalpur.
5. Nazarat Deputy Collector, Bhagalpur.

... .. Respondent/s

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**WITH**  
**Civil Writ Jurisdiction Case No. 20062 of 2018**

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1. Ratanjay Kumar Singh Son of Late Nand Kishor Singh, Resident of Mohalla- Laluchak, Angari, P.O. Bhagalpur, P.S.- Lodipur, District- Bhagalpur.
2. Shailendra Kumar Sinha, Son of Baleshwar Prasad Ram, resident of Mohalla- Umacharan Bose Lane, Kharmanchak, P.O.- Head Office, P.S. Adampur, District- Bhagalpur.
3. Amresh Kumar Amar, Son of Brijendra Kumar Karn, Resident of Mohalla-

Naya Tola, Bhikhanpur Gumti No. 1, P.S.- Ishakchak, District- Bhagalpur.

- 4. Md. Neyaz, Son of Md. Nisar Ahmad, Resident of Mohalla- Mir Faiku Lane near Urdu Madhya Vidyalaya Baharpura, P.S. Ishakchak, District- Bhagalpur.
- 5. Md. Parwaz, Son of Raza Mohammad, Resident of Mohalla- Mirdaha Lane, P.S. Ishakchak, District- Bhagalpur.
- 6. Md. Afroz, Son of Md. Raza Mohammad, Resident of Mohalla- Mirdaha Lane, P.S. Ishakchak, District- Bhagalpur.

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- 2. The Divisional Commissioner, Bhagalpur.
- 3. The Deputy Director (BSH), Bhagalpur.
- 4. The District Magistrate, Bhagalpur.
- 5. Nazarat Deputy Collector, Bhagalpur.

... .. Respondent/s

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WITH  
Civil Writ Jurisdiction Case No. 20164 of 2018

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- 1. Bishundev Paswan Son of Late Chattu Paswan, Resident of Village- Banshitikar, P.O.- Bishanpur Etichho, P.S.- Sabour, District- Bhagalpur.
- 2. Md. Ejaz Hossain, Son of Md Sajjad Hossain, resident of Tikayatoli Lane, P.S. Jagdishpur, District- Bhagalpur.
- 3. Mukund Bihari, Son of Late Gopal Roy, Resident of Village- Golaghat, P.O.- Bhagalpur City, P.S.- Tatarpur Kotwali, Distirct Bhagalpur.
- 4. Md Ekramunddin Ansari, Son of Late Md. Abdul Salam, resident of Village- Kajwalichak, P.S.- Tatarpur Kotwali, District- Bhagalpur.
- 5. Jitendra Kumar Roy, Son of Late Ramfal Roy, Resident of Village- Golaghat Garahaiya, P.S.- Tatarpur Kotwali, District- Bhagalpur.
- 6. Nand Bihari Roy, Son of Late Gopal Roy, resident of Village- Golaghat, P.O.- Bhagalpur City, P.S.- Tatarpur Kotwali, District- Bhagalpur.
- 7. Md. Shahnawaz, Son of Late Qamaruddin, Resident of Village- Kajwalichak, P.S.- Tatarpur Kotwali, District- Bhagalpur.
- 8. Awadhesh Roy, Son of Late Narayan Rai, Resident of Village- Resident of Village- Golaghat, P.O.- Bhagalpur City, P.S.- Tatarpur Kotwali, District- Bhagalpur.
- 9. Md. Shakilur Rahman, Son of Late Qamaruddin, Resident of Village- Kajwalichak, P.S.- Tatarpur Kotwali, District- Bhagalpur.

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- 2. The Divisional Commissioner, Bhagalpur.
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Bihar Karyalay Parichari/Parichari (Vishishth) (Bharti Aur Sewa Sharte) Niyamawali, 2023---Rule 13—Bihar Karyalay Parichari /Parichari (Vishishth) (Bharti Aur Sewa Sharte) Niyamawali, 2016--- appointment of the petitioners in case of over age by relaxation of age—High Court’s decision in Kapil Kumar vs. The State of Bihar and Others (2019), Md. Shamser vs. The State of Bihar & Ors (2018).

*Held:* Clause 13 of Rule 2023 does not provide protection to petitioners—petitioners participated under Rule 2016—appointment shall be made under 2016 Rule-writ petitions dismissed.

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... .. Respondent/s

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**Appearance :**  
(In Civil Writ Jurisdiction Case No. 19221 of 2018)  
For the Petitioner/s : Mr. Siyaram Sahi, Advocate  
Mr. Brij Nandad Prasad, Advocate  
For the Respondent/s : Mr. Md.N.H.Khan, SC-1  
Md. Fazle Karim, AC to SC-1  
(In Civil Writ Jurisdiction Case No. 20062 of 2018)  
For the Petitioner/s : Mr.Brij Nandad Prasad, Advocate  
For the Respondent/s : Mr. Raghwanand, GA-11  
Mr. Sanjay Kumar Tiwari, AC to GA-11  
(In Civil Writ Jurisdiction Case No. 20164 of 2018)  
For the Petitioner/s : Mr. Brij Nandad Prasad, Advocate  
For the Respondent/s : Mr. Prabhat Kumar Verma -Aag3  
Mr. Saroj Kumar Sharma, AC to AAG-3

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL JUDGMENT**  
**Date : 04-03-2024**

Heard learned counsel for the petitioners and  
learned counsel for the State in all the three writ petitions.

2. Learned counsel for the petitioners submits  
that the petitioners of all the three writ petitions were empaneled  
in the panel prepared in the year 2001/2004 as well as in the  
year 2016 as notified/advertised later on, and thereafter grant  
age relaxation, if petitioners found over age. The further relief  
has been sought for directing the respondents to consider the  
appointment of the petitioners on the 4<sup>th</sup> grade post and



accordingly issue appointment letter for their appointment. The further prayer to get their appointment on 4<sup>th</sup> grade post against the advertisement advertised in the year 2016 after relaxation of age, in case of over age.

3. Learned counsel for the petitioners submits that the petitioners have earlier moved for their grievances before this Hon'ble Court and this Hon'ble Court has pleased to dispose off the writ petition directing the petitioners to file a representation before the respondent authority and raise for redressal of their grievances within a period of four weeks and respondent has been directed to pass a reasoned and speaking order within a period of six weeks thereafter. With this direction, the writ petition was disposed off.

4. Learned counsel for the petitioners submits that they have filed the representation and their representations were rejected by the respondent authorities directing that if petitioners file application under advertisement of 2016 then lawful decision shall be taken on their application. Thereafter, the petitioners have filed the present writ petitions. Counsel further submits that during the pendency of the present writ petitions a matter with regard to appointment of Class-IV post has been decided by this Hon'ble Court in **Kapil Kumar Vs.**



**The State of Bihar and Others** with analogous cases (CWJC No.18612 of 2019, CWJC No.19179 of 2019 and CWJC No.19753 of 2019) passed on 18.12.2019. In the light of the said order, the State of Bihar has come forward with a Rule, namely, “बिहार कार्यालय परिचारी/परिचारी (विशिष्ट) (भर्ती एवं सेवा शर्त) नियमावली, 2023”. Counsel for the petitioners submits that admittedly this rule has been made for appointment of Class-IV employees in the different offices of Bihar Government and it has been notified on 22.09.2023. But Rule 13 of the said Rule 2023 grants exemption to the petitioners.

5. According to counsel for the petitioners, the saving clause narrates that in the light of compliance of judicial orders the appointment made under earlier rules, if not completed, then in that case the completion of appointment shall be made in the light of earlier rules only. Learned counsel for the petitioners submits that in the light of the saving clause the case of the petitioners have been saved and, therefore, the appointment of the petitioners ought to be made in the light of Rule 13 itself.

6. Learned counsel for the State in all the three cases jointly submits that the cases of the petitioners are not covered in the light of the saving clause as inserted in Rule 13





of Rule 2023. According to the State, it is true that petitioners have earlier moved before this Hon'ble Court but this Hon'ble Court has not directed to complete the appointment of the petitioners, rather the judgment of the Court on which the petitioners are relying, which is annexed as Annexure-8 of first case, i.e., CWJC No.15582 of 2014, in which the writ petition was disposed of only with direction to pass reasoned and speaking order on the representation of the petitioners and, as such, the exemption in the light of Rule 13 of Rule 2023 has not been available to the petitioners.

7. With a view to decide this aspect of the matter, it is necessary to quote the extract of the order passed by this Hon'ble Court in CWJC No.15582 of 2014 on which the petitioners are relying which is follows:-

*“In view of the said submission, all the three writ petitions are disposed of in terms of order dated 02.02.2018 passed in CWJC No.1550 of 2018.*

*..... The learned counsel for the petitioner submits that the petitioner may be permitted to file a representation before respondent No.3 with regard to publication of final panel of Class IV employees of Bhagalpur*



*District in pursuance of advertisement dated 07.12.2016 and the Respondent No.3 may be directed to decide the same within a specified time period.*

*In view of the aforesaid, it is directed that the petitioner may file a representation for redressal of his grievances before the respondent No.3 within a period of four weeks from today and the respondent No.3 shall pass a reasoned and speaking order within a period of six weeks thereafter and take the consequential action.*

*The writ petition is disposed off in the aforesaid terms.”*

8. As well as Clause 13 of the Rules 2023, which is as follows:-

“13-निरसन एवं व्यावृत्ति। (i)

इस सम्वर्ग के संबध में पूर्व में अधिसूचित बिहार समूह 'घ' (भर्ती एवं सेवा शर्तें) नियमावली, 2010 (समय-समय पर यथासंशोधित) [बिहार कार्यालय परिचारी/परिचारी (विशिष्ट) (भर्ती एवं सेवा शर्तें) नियमावली, 2010 के रूप में पुनर्नामित] तथा स्थानिक आयुक्त कार्यालय, नई दिल्ली समूह 'घ' संवर्ग (भर्ती एवं सेवा शर्तें) नियमावली, 2016 (समय-समय पर यथासंशोधित) [स्थानिक आयुक्त कार्यालय, नई दिल्ली कार्यालय परिचारी/परिचारी (विशिष्ट)]



**संवर्ग (भर्ती एवं सेवा शर्तों) नियमावली, 2016**

के रूप में पुनर्नामित] तथा समय-समय पर पूर्व में निर्गत संकल्प/नियमावली/आदेश आदि एतद् द्वारा निरसित समझे जायेंगे। परन्तु, किसी न्यायिक आदेश के अनुपालन में पूर्व की नियमावलियों के तहत आरम्भ की गई नियुक्ति की कार्रवाई, यदि अनिष्पादित हो, तब उसे पूर्व की नियमावलियों के तहत निष्पादित किया जा सकेगा।

(ii) ऐसे निरसन के होते हुए भी पूर्व में निर्गत संकल्प/नियमावली/आदेश आदि के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए किया गया कोई कार्य या की गई कोई कार्रवाई इस नियमावली द्वारा या इसके अधीन प्रदत्त शक्ति का प्रयोग करते हुए किया गया समझा जायेगा, मानो यह नियमावली उस तिथि को प्रवृत्त थी, जिस तिथि को ऐसा कोई कार्य या ऐसी कोई कार्रवाई की गई थी।”

9. Upon bare perusal of the order passed by this Hon’ble Court as well as Clause 13, it transpires to this Court that there is no specific direction granted by this Hon’ble Court in favour of the petitioners save and except to dispose of the representation with reasoned and speaking order. As such, this Court is of the view that there is no protection in favour of the petitioners in the light of the saving clause 13 of the Rule 2023.

10. It is clear from the reasoned order dated 03.07.2018 passed by respondent No.4 (Annexure-10) that the Collector has mentioned that if petitioners participated in Rule



2016, then the appointment of the petitioner shall be made in the light of 2016 Rule. But in the meantime, the Rule 2023 has been framed in the light of the decision made by this Hon’ble Court in the case of Kapil Kumar and Others decided with analogous cases which was subsequently approved by this Hon’ble Court vide order dated 17.02.2024 passed in LPA No.1183 of 2023 with analogous cases.

11. In this view of the matter, this Court is not inclined to grant any relief and, hence, these writ petitions are dismissed.

**(Dr. Anshuman, J)**

Mkr./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	13.03.2024
Transmission Date	NA

