IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6500 of 2026

==========

Kiran Kumari Wife of Mukesh Kumar, resident of - New Bigrahpur, Phulwari, P.O.-Patna, P.S.-Bigrahpur, District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary General, Administration Department, Government of Bihar, Patna.
2. The High Court of Judicature at Patna through Registrar General, Patna High Court, Patna.
3. The Bihar Public Service Commission through the Chairman, Bihar Public Service Commission,Patna.
4. The Chairman, Bihar Public Service Commission, Patna.
5. The Secretary, Bihar Public Service Commission, Patna.
6. The Joint Secretary cum Examination Controller, Bihar Public Service Commission, Patna.

... ... Respondent/s

==========

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Adv. Mr. Sushant Praveer, Adv.
For the Respondent/s	:	Mr. Kinkar Kumar, SC-9 Mr. Shashank Shekhar Dubey, AC to SC-9
For the B.P.S.C.	:	Mr. Sanjay Pandey, Adv.
For the P.H.C.	:	Mr. Piyush Lall, Adv.

==========

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 29-04-2026

Heard Mr. Mrigank Mauli, learned Senior Advocate alongwith Mr. Sushant Praveer, learned Advocate for the petitioner. Mr. Kinkar Kumar, learned Standing Counsel No. 9 for the State and Mr. Sanjay Pandey, learned Advocate for the Bihar Public Service Commission. The Patna High Court is represented through Mr. Piyush Lall, learned Advocate.

WEB COPY

2. The writ petitioner, by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, is seeking quashing of Clause 3 of the Advertisement No. 12/2026 issued for holding 33rd Bihar Judicial Service Competitive Examination, to the extent of fixation of the cut-off date for eligible maximum age. The said fixation of the cut-off date for maximum age for eligibility is said to be in gross violation of the Departmental Letter No. 212 dated 23.01.2006 issued by the Government of Bihar in the Department of Personnel and Administrative Reforms. The petitioner also sought a direction upon the respondents to amend Clause 3 of the captioned Advertisement No. 12/2026 and fix the cut-off date for maximum age eligibility to 01.08.2020, instead 01.08.2022.

3. Learned Senior Advocate, Mr. Mauli, while pressing the present application has submitted that the specific purpose of fixation of cut-off date with respect to age in Government services/cadres, has been addressed by the General Administration Department vide letter no. 212 dated 23.01.2006. By the afore-noted letter, it has been specifically provided that the review of vacancies must be carried out each year and thereafter the requisition for each year vacancy must be forwarded to the Bihar Public Service Commission or the

WEB COPY

recruitment agency. If the vacancy is not reviewed each year and requisition is not forwarded to the Commission, the candidates who fulfill the age criteria in the last advertisement, in case have crossed the age limit till fresh advertisement is issued, they must not be denied to appear in such examination. To clarify the aforesaid position and strengthen his submission, he submitted with all vehemence that the last advertisement for the post of Civil Judge (Junior Division) was issued in the year 2023 vide Advertisement No. 23/2023 for holding 32nd Bihar Judicial Service Examination, whereafter for three years no vacancy was advertised. Clause 3 of the Advertisement No. 23/2023 clearly stipulated the maximum age at forty years for unreserved female category, by giving the cut-off date as 01.08.2019.

Similar was the position in 31st Bihar Judicial Service Examination when Advertisement No. 04/2020 was issued. In the said advertisement, under Clause 3, the maximum age for unreserved female category was fixed at forty years and the cut-off date was mentioned as 01.08.2018; but surprisingly, in the Advertisement No. 12/2026 for conducting 33rd Bihar Judicial Service Examination, the cut-off date for unreserved female category has been arbitrarily fixed at 01.08.2022 instead of 01.08.2020, which ought to have been adhered by the

WEB COPY

respondents as has been done in the previous advertisement. On account of such arbitrary fixation of the cut-off date of maximum age for unreserved female category, the petitioner, an aspirant for the Advertisement No. 12/2026 has been deprived from appearing in the examination.

4. On the other hand, Mr. Piyush Lall, learned Advocate for the Patna High Court has submitted that the prayer of the writ petitioner is wholly misconceived and not tenable in the eye of law, specially in terms with 3rd proviso to Rule 4 and Rule 6(a) of the Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955. It is further submitted that similar issue has also come up for consideration before this Court in C.W.J.C. No. 5619 of 2020 (***Ram Milan Thakur -Vrs.- The State of Bihar & Ors.***) with C.W.J.C. No. 5638 of 2020 (***Vijaya Jaiswal & Ors. -Vrs.- The State of Bihar & Ors.***) where the issue has been clarified.

5. The learned Advocate for the Commission as well as the State also opposed the relief sought for in the writ petition.

6. After having heard the learned Advocate for the respective parties, before parting with the present writ petition it would be apt and proper to discuss the afore-noted relevant

WEB COPY

provisions determining the maximum and minimum age for appearing in the Bihar Judicial Service Competitive Examination.

The Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955 has been duly framed and notified in the official Gazette on 22nd of August, 1955, in exercise of the powers conferred by Article 234 of the Constitution of India and amended from time to time after consultation with the High Court of Judicature at Patna and the Bihar Public Service Commission. The rules made therein regulates the recruitment of Bihar Civil Service (Judicial Branch). Rule 4 of Rules, 1955 mandates that the Commission shall announce in each year in such manner as they think fit, the number of vacancies to be filled in that year by direct recruitment on the results of a competitive examination and shall invite applications from candidates eligible for appointment under these rules. 3rd proviso to Rule 4 provided that if common competitive examination is being conducted for particular year or years as a special case, the applicant shall be entitled to relaxation of upper age limit, provided such applicant was eligible in that particular recruitment year for which the common competitive examination is being conducted. Further, Rule 6(a) of Rules,

WEB COPY

1955 duly substituted through the amended notification no. 7733 dated 03.10.2000 read with further amendment notification no. 17283 dated 28.12.2016 reads as under :-

> *"**6.** A candidate may be of either sex and must -*
> ***(a)** Be his age should be under 35 years and over 22 years on the 1st day of August in the preceding year in which the examination is held.*
> *Provided that a candidate belonging to a reserved category including women orthopedically disabled category must be under 40 years and over 22 years of age on the said date.*
> *Provided further that, no candidate who does not belong to reserved category including women and orthopedically disabled category, shall be allowed to take more than five chances at the examination."*

7. After careful perusal of Rule 6(a) as noted hereinabove, it is manifest that the cut-off date for minimum and maximum age will be first day of August of the preceding year in which the examination was conducted. The materials, specially the copies of two previous advertisements which have been brought on record, further suggest that the last examination of 32nd Bihar Judicial Service Competitive Examination was conducted under Advertisement No. 23/2023 wherein the maximum age was fixed as forty years for unreserved female

WEB COPY

category and the cut-off date was fixed as 01.08.2019. Similarly, in the previous advertisement for holding 31st Bihar Judicial Service Competitive Examination through Advertisement No. 04/2020, the maximum age for unreserved female category was fixed at forty years and the cut-off date was 01.08.2018. After careful consideration of the fixation of cut-off date, in all the three advertisements, we are of the opinion that the same has been done in complete consonance with Rule 6(a) of Rules, 1955 which clearly mandate that the maximum age will be 1st day of August of the preceding year in which the examination is held. Since prior to the issuance of the Advertisement No. 23/2023 the earlier examination was conducted under Advertisement No. 04/2020, hence the maximum age limit in the Advertisement No. 23/2023 has been prescribed as 01.08.2019 and similarly in the present advertisement, in question, bearing no. 12/2026, the last examination was conducted in the year 2023, hence the cut-off date for maximum age of forty years has been rightly fixed at 01.08.2022.

8. This Court further finds substance in the submissions advanced by Mr. Piyush Lall, learned Advocate for the Patna High Court that the identical issue has been clarified by the learned co-ordinate Bench of this Court in ***Ram Milan***

WEB COPY

Thakur (supra) wherein the Court while highlighting the mandate of Rule 6(a) of the Rules, 1955 has negated the claim of the writ petitioners, who have approached this Court seeking identical reliefs for quashing of Clause 3 of Advertisement No. 04/2020. The co-ordinate Bench of this Court has also referred to ruling of the Hon'ble Supreme Court in the case of ***Dr. Ami Lal Bhat -Vrs.- State of Rajasthan and Ors.; (1997) 6 Supreme Court Cases 614*** that the issue with regard to fixation of a cut-off date for determining the maximum or minimum age is in the discretion of the Rule-making Authority or the employer as the case may be. The cut-off date cannot be fixed with a mathematical precision and in such a manner as would avoid hardship in all conceivable cases. As soon as a cut-off date is fixed, there will be some persons who fall on the right side of the cut-off date and some persons who will fall on the wrong side of the cut-off date, that cannot make the cut-off date, *per se*, arbitrary unless the cut-off date is so wide off the mark as to make it wholly unreasonable. Hardship of candidates will not make statutory provision illegal, capricious and arbitrary.

9. In view of the discussions, aforenoted and the reliance placed by the learned Senior Advocate for the petitioner, upon the letter no. 212 dated 23.01.2006 issued by

WEB COPY

the Department of Personnel and Administrative Reforms, Government of Bihar, in the opinion of this Court, shall not be interpreted in any other manner, except in consonance with Rules, 1955, specially Rule 6(a) thereof. Any interpretation of the letter dated 23.01.2006 contrary to the statutory rule is not permissible. The captioned advertisement, especially clause 3 thereof fixing the maximum age limit and its cut-off date is in conformity with the prescription of rules, noted hereinabove.

10. Accordingly we find the writ petition *sans any merit*, fit to be dismissed.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

supratim/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	04.05.2026
Transmission Date	NA

WEB COPY