

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4028 of 2020

1. Binod Kumar, Son of Phekan Singh R/o Village- Kasmar, P.O.- Kharika, P.S.- Sonpur, District- Saran.
2. Mukesh Kumar, Son of Ram Balak Roy Resident of Village and P.O.- Olhanpur, P.S.- Marhowrah, District- Saran- 841415.
3. Rishu Kumar Gupta, Son of Surendra Prasad Gupta Resident at Taubhatta Barari, P.O.- Gurubazar, P.S.- Barari, District- Katihar.
4. Rohit Kumar Rahi, Son of Kapildeo Sah Resident of Village and P.O.- Sahja, P.S.- Mansahi, District- Katihar.
5. Rohan Prakash, Son of Sikandar Sah Resident at Mohanpur, P.O.- Hasanpur, P.S. and District- Madhepura.
6. Soni Kumari, Daughter of Dinesh Paswan Resident At Sarahi Paswan Tola, Ward No.-03, P.O. and P.S.- Adarsh Thana, Saharsa, District- Saharsa.
7. Ankur Kumar, Son of Ramjee Prasad Keshari Resident of Raj Gola West Gate Station Road, Dumraon, P.O. and P.S.- Dumraon, District- Buxar.
8. Sonu Kumar Gupta, Son of Ravi Shankar Gupta Resident of Awtar Bangali Ki Gali, Dumraon, P.O. and P.S.- Dumraon, District- Buxar.
9. Arvind Kumar, Son of Harendra Prasad Sharma At and P.O.- Semapur, P.S.- Barari, District- Katihar.
10. Aditya Kumar, Son of Deepak Kumar Gupta Resident At- Rhika Tola, Opposite S.P. Kothi, P.S.- Araria, District- Araria.
11. Md. Nisar Alam, Resident of Mohalla- Satyarganj, P.O. and P.S.- Islampur, District- Nalanda- 801303.
12. Abhishek Kumar Chaudhary, Son of Ashok Chaudhary Resident At- Masumganj, P.O.- Chapra, P.S.- Bhagwan Bazar, District- Saran at Chapra, Pincode- 841301.
13. Ujjwal Kumar Jaiswal, Son of Gopal Jaiswal Resident at- Lohiya Nagar P.O.- Katihar, P.S. and District- Katihar, Pincode- 854105.
14. Pawan Kumar Singh, Son of Ashok Singh Resident of Village- Parmanand Chapra, P.O.- Bangla Basantpur, P.S.- Amnour, District- Saran at Chapra, Pincode- 841401.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. Bihar Prashasnik Sudhar Mission Society, Barrack No.5, Old Secretariat, Patna- 800015 through its Mission Director.
4. The Mission Director, Bihar Prashasnik Sudhar Mission Society, Barrack



- No.5, Old Secretariat, Patna- 800015.
5. The OSD, Bihar Prashasnik Sudhar Mission Society, Barrack No.5, Old Secretariat, Patna- 800015.
 6. The District Magistrate, Saran.
 7. The District Magistrate, East Champaran at Motihari.
 8. The District Magistrate, Rohtas.
 9. The District Magistrate, Araria.
 10. The District Magistrate, Madhepura.
 11. The District Magistrate, Madhubani.
 12. The District Magistrate, Nawada.
 13. The District Magistrate, Katihar.
 14. Bihar Electric Development Corporation Limited, Beltron, Shastri Nagar through its Managing Director, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Adv.
Mr. Pranav Kumar, Adv.
Ms. Shristi Singh, Adv.
For the State : Mr. Saroj Sharma, Adv.
For the BELTRON : Mr. Girijesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 01-03-2024

Heard learned counsel for the petitioners, learned counsel for the State and learned Counsel for the Bihar State Electronics Development Corporation Ltd. (BELTRON).

2. The petitioners have prayed for the following relief/s :-

“(i) To issue an appropriate writ order direction in the nature of certiorari for quashing the minutes of the 23rd meeting of the Governing Council of the Bihar Prashasnik



Sudhar Mission Society (General Administration Department) (hereinafter referred to as the "Society") held on 08.07.2019 to the extent the decision taken that against the new sanctioned post of Executive Assistant by the Society shall be filled up through Beltron in place of the merit list / Panel constituted by the District Level Selection Committee (Annexure .7).

(ii) To issue an appropriate writ order direction in the nature of certiorari for quashing the order issued through memo no. 1382 dated 31.07.2019 issued under the signature of OSD, Society whereunder against the newly sanctioned post of Executive Assistant under the Society will be filled through Beltron against the available vacancy of the Executive Assistant in the concerned district and further directed to make requisition to the Beltron for Data Entry Operator (Annexure 8).

(iii) To issue an appropriate writ order direction in the nature of certiorari for quashing the memo no. 2341 dated 23.12.2019, the Society issued under the signature of OSD of the Society whereunder it was decided that the person engaged from the panel/ merit list prepared by the District Level Selection Committee is only for 3 months and thereafter, such persons have to appear in eligibility test conducted by the Beltron so that their engagement will be continued and that there shall be no selection from the merit / panel list prepared at the District level once the process of selection list by Beltron is completed and the order dated 31.07.2019 was modified to that extent (Annexure 10).

(iv) To issue an appropriate writ order direction in the nature of mandamus commanding the respondents to fill the sanctioned vacant post by the Society through



the merit list / Panel constituted by the District Level Selection Committee and not through Beltron.

(v) To declare and hold that the life / validity of the merit list / panel constituted by the District Level Selection Committee is 3 years in terms of the decision taken by the society through its letter no. 440 dated 05.05.2016 and any selection against the post of Executive Assistant sanctioned by the Society shall be done through the Panel constituted by the District Level Selection Committee.

(vi) To issue an appropriate writ order direction in the nature of mandamus commanding the respondent society directing the Beltron not to proceed with the selection process of Executive Assistant in terms of the decision taken by the Society through its memo no. 1382 dated 31.07.2019.

(vii) To any other relief for which the petitioner appear to be found entitled by the Hon'ble Court.”

3. Learned counsel for the petitioners submits that respondent No.3, namely the Bihar Prashasnik Sudhar Mission Society (hereinafter referred to as ‘the BPSMS’) is a Society registered under the Societies Registration Act, 1860 and sponsored by the Government of Bihar with its objective to strengthen the Government Administration to bring more transparent, more efficient system, better trained and motivated public servant and for better delivery of government services and for good governance. The BPSMS in order to achieve its



objective initiated a process of selection of Executive Assistant in the year 2015 for facilitating the implementation of Bihar Right to Public Service Act, 2011. Thereafter, an advertisement was published by the BPSMS prescribing the eligibility conditions to the effect that the appointment will be made for 1 year, however, subject to the requirement, the same can be extended.

4. Learned counsel further submits that according to the advertisement, the BPSMS has decided for preparation of roaster/merit list/ panel by which the applications will be invited at the district level and a Committee will be constituted under the Chairmanship of the District Magistrate of the concerned district. Thereafter, the selection from the said panel/merit list will be done subject to the seniority. The selected person will be appointed against the vacancy available and the last date for application was fixed as 31.03.2015. The Mission Director of the BPSMS issued a direction through letter no. 440 dated 05.05.2016 to all the District Magistrates and the Divisional Commissioners with regard to the life of the panel has to be three years along with a detailed guideline with respect to the preparation of the panel was formed by the BPSMS. Subsequently, another letter vide Letter No. 910 dated



02.07.2018 was issued by the Mission Director with respect to the publication of advertisement at the district level by amending the procedure in preparation of the merit list/panel against the post of Executive Assistant noticing the several difficulties and different procedures being adopted by the districts. It has been decided that in the case of the Executive Assistant, the panel/merit list will be prepared by the districts in place of the Society, and the concerned districts as per the requirement of the Executive Assistant will publish the advertisement and a format of the advertisement was supplied with the said letter.

5. Learned Sr. Counsel further submits that the different District Magistrates published an advertisement for the preparation of the merit list/panel for the post of Executive Assistant for appointment in the District Grievance Redressal Cell in the different districts of Bihar. In this regard, an advertisement has been published in Saran district bearing Memo No. 1197 dated 10.08.2018 whereas in the district of Rohtas at Sasaram, the advertisement was published on 06.08.2018. Learned Sr. Counsel for the petitioners submits that the petitioners participated in the said process. Upon completion of the process of examination, the final merit list of 927 persons



was prepared and published on 28.12.2018 in the district of Saran.

6. Learned Sr. Counsel for the petitioners further submits that in the 23rd meeting of the Governing Council of the BPSMS held on 08.07.2019, it was resolved that the new sanctioned post of Executive Assistants by the Society shall be filled up through BELTRON in place of the merit list/Panel constituted by the District Level Selection Committee. At the time of taking a decision, this aspect has not been considered by the BPSMS already a panel has been constituted by the District Level Selection Committee for engaging the Executive Assistant through a rigorous selection process. Learned counsel further submits that thereafter, in view of the decision taken by the BPSMS, the newly sanctioned post of Executive Assistant under the BPSMS was decided to be filled through BELTRON against the available vacancy in the concerned district and subject to requisition to the BELTRON for Data Entry Operator. In this regard, a letter dated 31.07.2019 contained in Memo No. 1382 was issued under the signature of the Officer On Special Duty of the BPSMS indicating the decision taken that the newly sanctioned post of Executive Assistant under the Society was decided to be filled through BELTRON against the available



vacancy of the Executive Assistant in the concerned district and further directed to make requisition to the BELTRON for Data Entry Operator.

7. The plea of the Sr. Counsel for the petitioners is that before taking such decision and passing such order, the BPSMS did not mention anything with regard to the status of the earlier panel constituted by the District Level Selection Committee which has been prepared in the light of the direction of the BPSMS. Learned Sr. Counsel further submits that the selected candidates from the panel whose names were figured in the panel /merit list prepared by the District Level Selection Committee protested the said decision thereafter, the Governing Council of the Society in its 24th meeting dated 20.09.2019, decided to consider the case of the petitioners that the districts in which before passing the order dated 31.07.2019, the process of preparation of the panel list was finalized from such districts merit/panel list. The service of Executive Assistant will be deputed in different departments as per the requirement and thereafter the matter was deferred for the next meeting for consideration and no final decision with respect to the petitioners and similarly situated persons was taken by the BPSMS. Learned counsel further submits that *vide* Memo No.



2341 dated 23.12.2019, the BPSMS came out with another order issued under the signature of the Officer on Special Duty by which it has been decided that the person engaged from the panel/merit list prepared by the District Level Selection Committee is only for three months and, thereafter, such persons have to appear in eligibility test conducted by the BELTRON so that their engagement will be continued. From the order dated 23.12.2019, it became clear that there shall be no selection from the merit/ panel list prepared at the District level once the process of selection list by BELTRON is completed and the order dated 31.07.2019 is modified by the present order. Counsel for the petitioners further submits that no reason has been assigned as to why the petitioners who have already gone through a selection process including written and typing examinations should be compelled and subjected to further process again by way of appearing for BELTRON qualification process. This is clearly an unjustified onerous process being imposed on the petitioners is an abuse of the position of the Society and is demonstrative of the exercise of undue influence.

8. Learned counsel further submits that as per the advertisement of the BPSMS, the engagement has to be made for one year, however, the same was also modified and a



decision was taken through memo No. 436 dated 26.02.2019 issued by the Additional Mission Director whereunder the period of the service was extended up to 60 years or closure of the scheme whichever is first and thus, there is no requirement of extension of contract year-wise. Learned counsel further submits that there is a huge requirement for an Executive Assistant within the different departments/ organizations of the State of Bihar for proper functioning. The Principal Secretary of Panchayati Raj has requested for providing of service of Executive Assistant from the panel prepared through its Letter No. 5367 dated 28.08.2019 from the Additional Chief Secretary, General Administration Department who is the Mission Director of the Society. Similarly, the Joint Director, Science and Technology Department made a similar request even the Director General of Police through its letter dated 02.11.2018 requested for the service of the Executive Assistant from the panel of Mission Director of the Society after obtaining approval from the Home Department along with other requisition by the different departments.

9. The specific plea has been taken by learned counsel for the petitioners that there is a huge demand for the Executive Assistant in the different departments/organizations of the Bihar



Govt. and to that effect several communications have been made with the Society through its Mission Director for providing their services to their departments. Thus, there is no reason available to the Society to discard the earlier panel prepared by the District Level Selection Committee especially when the services are readily available when already there is a panel/merit list of selected candidates lying with the Society and there is an immediate demand by the different departments. He further submits that at the time of passing the order dated 31.07.2019, the BPSMS has not considered the above-mentioned facts and has no cogent reason with respect to discarding/scrapping the earlier panel especially when the validity of the panel is for three years and is currently in continuance. Even no reason for taking a decision with respect to scrapping the earlier panel has been discussed or mentioned in the proceeding of the Society, hence, it appears to be colourable exercise of power and the orders dated 31.07.2019 and 23.12.2019 are arbitrary and illegal. The action of the respondents is not only in a gross violation of Articles 14 and 21 of the Constitution of India but also illegal, arbitrary, unwarranted, unconstitutional, and mala fide as well as bad in law or in facts.

10. Learned counsel for the State on the other hand



submits that the decision by the Mission has been made completely in accordance with law. Only insertion of the names of persons in the panel do not create any right to the person whose name has been inserted into the panel. Only restriction has been cast that those persons whose name shall be selected from the panel for appointment have the eligibility criteria as per the standard fixed.

11. Learned counsel for the BPSMS submits that for the purpose of implementation of the Bihar Right to Public Services Act, 2011, the Society created posts of IT Managers, IT Assistants, and Executive Assistants. Further posts were created for the implementation of the Bihar Right to Grievance Redressal Act, 2015. The Executive Assistants are primarily Data Entry Operators recruited to receive and digitalize applications received at the RTPS counter established at all districts, Sub-Divisional, and Block levels and at Public Grievance Redressal Officers at the Department, District, and Sub-Division level. They also perform related functions like disbursal of certificates/orders etc. They were recruited from panels created at the district level those were initially valid for a year but vide a decision of Society the validity of panels has been increased to 3 years. He further submits that other



departments/officers were allowed to requisition for providing services of Executive Assistants from the district panels provided they accepted the service conditions as specified for Executive Assistants under BPSMS from time to time. The recruitment process of Executive Assistants varied from district to district and the Executive Assistants under BPSMS had lesser remuneration as compared to the remuneration of the Data Entry Operators of BELTRON, who provide similar data entry services. The Executive Assistants demanded for a parity of remuneration with the Data Entry Operators of BELTRON, given the similarities in their work.

12. Learned counsel further submits that while on one hand, parity was achieved on remuneration, it was equally important to standardize the recruitment process of the Executive Assistants across the districts and also vis-a-vis the Data Entry Operators of BELTRON. It has been mentioned that the Data Entry Operators of BELTRON are empanelled after going through a uniform examination process. The General Council of the BPSMS in its meeting dated 08.07.2019 took a considered view of the lack of uniformity with respect to the empanelment of Executive Assistants across districts as against the uniform process of examination for empanelment of Data



Entry Operators of BELTRON and decided to do away with the recruitment of Executive Assistants from the district panels and directed the districts to fill up further vacancies by requisitioning BELTRON to provide Data Entry Operators, for same as per Model Reservation Roster and that BELTRON shall provide services of Data Entry Operators as per the requisition. The decision of the Governing Council of the Society dated 08.07.2019 of the 23rd Council, is contained in Memo No. 1350, dated 25.07.2019 are very much clear and need no interference.

13. Learned counsel further submits that the BPSMS in the light of the aforesaid directions made in the meeting conducted on 08.07.2019 has passed an order *vide* Memo No. 1382 dated 31.07.2019 and forwarded the same to all the concerned authorities. Subsequently, it has been decided to allow the recruitment of Executive Assistants from the district panels as an interim measure till BELTRON completes its panel preparation process, subject to certain conditions viz. The contract will be for 3 months only and the contract may be extended subject to the requirement of the concerned department/office provided the candidate clears the exams of Data Entry Operators conducted by BELTRON. The level of the



said eligibility test would be as per the standard fixed with regard to the Data Entry Operators of the BELTRON. The BPSMS will bear the cost of the examination fees. This underlies the concern for ensuring a standardized and uniform recruitment process of Executive Assistants and Data Entry Operators across the State and in this regard the BPSMS has issued an order vide Memo No. 2341 dated 23.12.2019 in the light of the directions made in the meeting conducted on 13.12.2019. Learned counsel for the BPSMS submits that preparation of the panel does not mean the right of recruitment and it is well within the power of an employer to fix the standards to appoint such person only on the post of Executive Assistant having the capacity to conduct the work of Data Entry Operator for which it is necessary to maintain their standard up to the level of Data Entry Operator of the BELTRON.

14. Learned counsel for the BELTRON on the other hand submits that the examination process has been decided before this Hon'ble Court in a series of cases particularly in the case of *Abhishek Kumar and Ors Vs. The State of Bihar and Ors.* passed in **CWJC No. 5823 of 2020** decided on 23.08.2021 by which the claim of the petitioners as like that of the present petitioners have been dismissed by a co-ordinate Bench of this



Court. Learned counsel further submits that the case of the petitioner has been decided in paragraph 13 of the judgment in which the Hon'ble Court has pleased to hold that "it is a settled legal position that inclusion of name in the panel does not give a person any right to be appointed. The policy decision of BPSMS, as reflected in the order issued by the General Administration Department dated 31.07.2019, before the petitioners were actually engaged, cannot be said to be unreasonable, arbitrary, unauthorized, or otherwise illegal which requires the engagement of executive assistants from the panel made available by BELTRON, which is a Government of Bihar undertaking and not a private body. This Court also holds that from the materials on record knowledge in computer is apparently a basic requirement for performance of duties by an executive assistant. Visibly, in the said background, a policy decision appears to have been taken by BPSMS under the General Administration Department, Government of Bihar to engage executive assistants for Panchayats on the basis of names made available by BELTRON. He said a policy decision has apparently been taken to safeguard the interest of selected candidates on the basis of district-level advertisement who could have been otherwise not engaged in view of the earlier decision



of BPSMS and subsequent order of the General Administration Department dated 31.07.2019. Had there been no decision in the nature of the order dated 23.12.2019, the petitioners could not have had any claim for their engagement, only on the basis of the inclusion of their names in the panel. The petitioners, unfortunately, are challenging the decision of BPSMS and the General Administration Department taken in their interest. The requirement of passing the examination of the standard of Data Entry Operator is apparently in public interest commensurate with the requirement of the post in question.”

15. In response thereafter, learned Sr. Counsel for the petitioners relied on other judgment passed by a co-ordinate Bench of this Court in CWJC No. 7459 of 2020 with an analogous case decided on 01.12.2021 in which it has been decided as under :

5. Pursuant to advertisement dated 06.08.2018, a panel was prepared on 02.03.2019. Further order of appointment was issued on 22.01.2020. During the intervening period from the date of preparation of panel dated 02.03.2019 and 22.01.2020, the date on which the petitioners were appointed, the official respondent issued a notification dated 23.12.2019 by which such of those persons were appointed on contract basis to the post Executive Assistant were required to pass certain prescribed proficiency test to be conducted by BELTRON. Feeling aggrieved by the



prescription of proficiency test to be conducted by BELTRON dated 23.12.2019, the petitioners are presented this petition.6. Learned counsel for the petitioner vehemently contended that selection and appointment to the post of Executive Assistant on contract basis was required to be adhered in terms of advertisement dated 06.08.2018. Once the panel is prepared on 02.03.2019, the respondent cannot prescribe further qualification like passing in proficiency test to be conducted by the BELTRON in terms of 23.12.2019. Such additional prescription of qualification for the post of Executive Assistant on contract basis amounts to game changer.

7. Per contra, learned counsel for the respondents submitted that respondents have every power to prescribe education qualification before order of appointment was issued. In order to strengthen their status in the post of Executive Assistant proficiency test is required to be passed, therefore, the official respondents have taken a policy decision that such of those persons who were appointed to the post of Executive Assistant on contract basis were required to pass proficiency test to be conducted by BELTRON, therefore, there is no infirmity in the order dated 23.12.2019 in prescription of proficiency test to be conducted by the BELTRON to such of those appointees to the post of Executive Assistant on contract basis in the State.8. Heard learned counsel for the respective parties.

9. Crux of the matter in the present petition is whether official respondent could add additional qualification for the purpose of selection and appointment to the post of Executive Assistant. Once the advertisement and process of selection was completed with reference to the advertisement dated 06.08.2018. Heard learned counsel for the respective parties.



9. *Crux of the matter in the present petition is whether official respondent could add additional qualification for the purpose of selection and appointment to the post of Executive Assistant. Once the advertisement and process of selection was completed with reference to the advertisement dated 06.08.2018 and panel was prepared on 02.03.2019 and further order of appointment was issued on 22.01.2020 insofar as Sasaram District is concerned. No doubt Annexure A1 dated 23.12.2019, the official respondents have prescribed proficiency test for the purpose of appointment to the post of Executive Assistant on contract basis through BELTRON, the same was not reflected in the advertisement dated 06.08.2018. In other words, for the first time, passing of proficiency test to be conducted by BELTRON is incorporated on 23.12.2019 and it has only prospective effect and it has no retrospectivity to such of those recruitment which were held prior to 23.12.2019.*

10. *In the light of these facts and circumstances, the petitioners have made out a case so as to interfere with Annexure A1 order dated 23.12.2019. Thus, insofar as petitioners selection and appointment to the post of Executive Assistant pursuant to the advertisement dated 06.08.2018 is concerned, the impugned order dated 23.12.2019, Annexure 1 relating to prescription of proficiency test to be conducted by BELTRON to the post of Executive Assistant on contract basis under the advertisement dated 06.08.2018 is not applicable. The official respondents cannot prescribe passing of proficiency test to be conducted by BELTRON pursuant to the order dated 23.12.2019 insofar as petitioners are concerned. Accordingly, petition is allowed.*

11. *At this stage, learned counsel for the State relied on decision passed in CWJC 5823 of*



2020 in which the impugned order was not interfered. This Court has not taken note of the fact that advertisement is dated 06.08.2018, panel was prepared on 02.03.2019 and a game changer like adding additional qualification insofar as passing of proficiency test to be conducted by BELTRON is dated 23.12.2019 and has no retrospective effect and it is only executive order. Executive orders would be always prospective in nature.”

16. In addition to above, the counsel for the petitioners also relied on a judgment rendered in the case of ***Director SCTI for Medical Science and Technology and Anr. V. M. Pushkaran*** reported in ***(2008) 1 SCC 448*** in which it has been decided that “panelists have got enforceable right to appointment”. He relied another judgment rendered in the case of ***State of U.P. Vs. Ram Swarup Saroj*** reported in ***(2000) 3 SCC 699*** in which it has been held that “merely because a period of one year of the panel has elapsed during the pendency of litigation, the Court cannot decline to grant the relief”.

17. Learned counsel submits that here in the present case also the life of panel is 3 yeas and the said date of panel for 3 years have been lapsed during pendency of litigation. Therefore, on this ground, the relief cannot be declined. Lastly, learned Sr. Counsel relied on a judgment rendered in the case of ***Ramesh Chandra Sankla Vs. Vikram Cement*** reported in ***(2008) 14 SCC 58*** in which it has been held that “the



jurisdiction of the Hon'ble High Court under Article 226 of the Constitution of India is equitable in nature” and here in the present case, the equity demands interference in the present matter.

18. Upon hearing the argument advanced by the parties and going through the pleading of the parties, this Court is raising certain points which is already on record in 23rd meeting dated 08.07.2019. The decision of the BPSMS on the point of petitioners' matter is as follows :-

“बिहार प्रशासनिक सुधार मिशन सोसाइटी अंतर्गत कार्यपालक सहायक हेतु सृजित पदों पर नियोजित एवं कार्यरत कार्यपालक सहायकों के अतिरिक्त अब नये रिक्तियों के विरुद्ध नियोजन बेल्ट्रॉन के माध्यम से किया जायेगा। जिस जिला अंतर्गत कार्यपालक सहायक के सृजित पदों के विरुद्ध रिक्तियों होगी, वह जिला रिक्तियों के अनुरूप आदर्श आरक्षण रोस्टर का अनुपालन करते हुये बेल्ट्रॉन से डाटा इन्ट्री ऑपरेटरों की सेवा प्राप्त करने हेतु अधियाचना करेगा। बेल्ट्रॉन द्वारा मांग के अनुरूप डाटा इन्ट्री ऑपरेटरों की सेवा उपलब्ध कराई जायेगी। बेल्ट्रॉन द्वारा जिलों को उपलब्ध कराये गये डाटा इन्ट्री ऑपरेटरों का भुगतान बिहार प्रशासनिक सुधार मिशन सोसाइटी द्वारा बेल्ट्रॉन को किया जायेगा।”

19. It also transpires to this Court that in the light of the said decision, Letter No. 1382 dated 31.07.2019 has been issued in compliance of the decision, 24th seating of BPSMS, the matters relating to petitioners have been raised which is as



follows:

“शासी परिषद के उपरोक्त निर्णय के कार्यान्वयन में तत्काल आ रही व्यवहारिक कठिनाईयों के दृष्टिगत शासी परिषद के निर्णय में निम्नवत आंशिक संशोधन का प्रस्ताव है :-

1. जिन जिलों में पैनल प्रकाशन का कार्य उपरोक्त वर्णित आदेश के निर्गत होने के पूर्व अंतिम रूप से पूरा कर लिया गया था, उन जिलों में निर्मित पैनल से ही विभिन्न विभागों/कार्यालयों में मांग के अनुसार कार्यपालक सहायक की सेवा दी जायेगी। पैनल की 03 वर्ष की वैधता अवधि के समापन अथवा पैनल में उपलब्ध सभी अभ्यर्थियों के नियमानुसार नियोजित होने का अवसर दिये जाने के उपरांत (इनमें से जो पहले हो) पैनल समाप्त हो जायेगा। उसके उपरांत इन जिलों के द्वारा कार्यपालक सहायक का कोई नए पैनल का निर्माण नहीं किया जायेगा। उसके उपरांत बिहार प्रशासनिक सुधार मिशन सोसाइटी अंतर्गत कार्यपालक सहायक हेतु सृजित पदों पर नियोजित एवं कार्यरत कार्यपालक सहायकों को छोड़कर नई रिक्तियों के विरुद्ध नियोजन बेल्ट्रॉन के माध्यम से किया जायेगा। जिस जिला अंतर्गत कार्यपालक सहायक के सृजित पदों के विरुद्ध रिक्तियों होंगी, वह जिला रिक्तियों के अनुरूप आदर्श आरक्षण रोस्टर का अनुपालन करते हुये बेल्ट्रॉन से डाटा इन्ट्री ऑपरेटरों की सेवा प्राप्त करने हेतु अधियाचना करेगा। बेल्ट्रॉन द्वारा मांग के अनुरूप डाटा इन्ट्री ऑपरेटरों की सेवा उपलब्ध कराई जायेगी। बेल्ट्रॉन द्वारा जिलों को उपलब्ध कराये गये डाटा इन्ट्री ऑपरेटरों का भुगतान बिहार प्रशासनिक सुधार मिशन सोसाइटी द्वारा बेल्ट्रॉन को किया जायेगा।

2. जिन जिलों में उपरोक्त आदेश के निर्गत होने के पूर्व अंतिम रूप से पैनल प्रकाशन का कार्य पूर्ण नहीं हो पाया था, उन जिलों में उपरोक्त वर्णित आदेश के आलोक में बिहार प्रशासनिक सुधार मिशन सोसाइटी अंतर्गत कार्यपालक सहायक हेतु सृजित पदों पर नियोजित एवं कार्यरत कार्यपालक सहायकों को यथावत रखते हुए नई रिक्तियों के विरुद्ध नियोजन बेल्ट्रॉन के माध्यम से किया जायेगा।”

20. It also transpires to this Court that the earlier letter which was issued *vide* Memo No. 1382 dated 31.07.2019 has



been further modified *vide* Memo No. 2341 dated 23.12.2019. From the said letter, it has been decided that the appointment shall be for three months which shall be made from the panel prepared and it may be extended for more than three months and during the said period, all the Executive Assistants appointed from such panel have to clear an examination to be conducted by the BELTRON.

21. This Court is of the firm view that the decision taken by a co-ordinate Bench of this Court in the case of *Abhishek Kumar and Ors Vs. the State of Bihar and Ors. (supra)* that the inclusion of name in the panel does not give any person any right to be appointed. The policy decision of the BPSMS as referred in the order contained in Memo No. 2341 dated 23.12.2019 does not deprive the present petitioners, rather, they were asked to qualify a basic minimum standard to engage the Executive Assistants as part with the standard of BELTRON which is a Government of Bihar undertaking and employer thinks so to maintain its standard usable as per its work.

22. This Court also agrees that taking examination after the grant of appointment for which fee has been paid by the BPSMS itself shall have been taken to safeguard the interest of selected candidates on the basis of district-level



advertisement who have been otherwise not engaged in view of the earlier decision of BPSMS as after passing their examination, they shall have right to get an appointment but only the inclusion of names in the panel could not have had any claim for their engagement/appointment.

23. So far as the judgment on the basis of which the petitioners are claiming that the order passed in CWJC No. 7459 of 2020, it transpires that it has been decided for those candidates whose recruitment was held prior to the said meeting of BPSMS. In the said judgment, it has been clearly held that the persons who were appointed on a contract basis to the post of Executive Assistant was appointed on 23.12.2019 prior to issuance of notification, whereas in the present case, the name of all the petitioners are present in the panel and none of them have been appointed except petitioner nos.5 and 6. Since on the judgment quoted by learned counsel for the petitioners except petitioner nos.5 and 6 that during pendency of the writ petition even if the life of the panel has lapsed, then the Court ought not to decline to grant the relief. This Court fully agrees in the light of the case decided by the Hon'ble Court in *State of U.P. Vs. Ram Swarup Saroj (supra)* that till exhaustion of the panel, no person shall be considered other than those who were listed in



the panel and only in case of failure to complete the standard as per the BELTRON, persons other than the said panel shall be appointed.

24. So far as the question of quashing of letters contained in Memo No. 1382 dated 31.07.2019, there is no need for that. As per the said letter, it has been stated that it has already been modified *vide* memo No. 2341 dated 23.12.2019 in which liberty has already been granted to petitioners except petitioner nos.5 and 6, this Court is not inclined to quash any letters but the respondents are specifically directed that the respondent shall do work completely in accordance with its own letter contained in Memo No. 2341 dated 23.12.2019 within three months from the date of passing of the order.

25. Hence, this Court conclusively directs to the respondent that till exhaustion of the panel, no person shall be considered other than those who were listed in the district panel and after providing their appointment for three months in the light of Memo No. 2341 dated 23.12.2019, opportunity shall be granted to them to appear in the said test and the cost of the respondent. It is made clear that only in case of failure to complete the said test, the persons other than the district panel shall be appointed.



26. All exercise should be done within a period of six months.

27. Accordingly, with the aforesaid observations and directions, this writ petition stands disposed off.

(Dr. Anshuman, J.)

Divyansh/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	06.03.2024
Transmission Date	NA

