

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5100 OF 2013
(Arising out of SLP(C) No.36341 of 2011)

BIHAR STATE TEXT BOOK WORKERS UNION Appellant

VERSUS

STATE OF BIHAR & ANR Respondents

O R D E R

Leave granted.

2. Heard learned counsel for the parties.

3. The appellant, the Bihar State Text Book Workers Union seeks promotion of Helpers serving in the Bihar State Text Book Publishing Corporation for over 20 years, to the post of Operatives.

4. The appellant-Union approached the High Court of Patna with a prayer that the Divisional Commissioner, Patna be directed to nominate a Member of the Departmental Promotion Committee which should in turn, consider the case of the members of the appellant-Union for promotion to the post of Operatives. A Single Judge of the Patna High Court granted the prayer and directed the Departmental Promotion Committee to consider the case of the members of the appellant-Union for promotion to the post of Operatives and if they are found qualified to hold the post, pass appropriate order in accordance with law. In an intra court appeal carried by the respondent No.2 Corporation, on the ground that though the Helpers were appointed 20 years ago and were all non-

matriculates, a Division Bench declined to uphold the relief granted by the Single Judge and allowed the appeal and dismissed the writ petition.

5. Before us, the respondents strongly resisted the claim of the appellant on the ground that the Helpers are not entitled to be considered for promotion to the post of Operatives because they are non-matriculates. We find that the advertisement lays down the qualifications which are as follows:

"(1) That the Helpers should have working experience for more than a year in a offset book printing press of repute;

(2) Matric or pre-University with science or a graduate;

(3) Sound physique with aptitude for manual work; and

(4) Age below 28 years."

6. The learned counsel for the respondents was, however, unable to support the requirement of matriculation on the basis of any rule, statute, regulation or resolution of the Corporation. On the other hand, we find from the details of the Sixth Pay Commission which is admittedly applicable vide Annexure 'Kha' as apparently adopted by the Bihar State Text Book Publishing Corporation that the qualifications for Operatives are only trade test and work experience. Matriculation is conspicuously absent. The respondents are not entitled to introduce a qualification not prescribed anywhere into the advertisement or any Statutory Rules etc. Therefore, we have no hesitation in setting aside the order of the Division Bench and upholding the order of the Single Judge

directing that the Helpers working with the Bihar State Text Book Publishing Corporation be considered for promotion to the post of Operatives. The respondents shall consider the Helpers for promotion to the post of Operatives provided they hold the requisite qualifications, namely, trade test and work experience. The exercise must be completed within a period of six months from today. Appeal is accordingly allowed.

.....J.
[DR. B.S. CHAUHAN]

.....J.
[S.A. BOBDE]

NEW DELHI
DATED: 8th JULY, 2013



JUDGMENT

ITEM NO.1A
(for Judgment)

Court No.6

SECTION XVI

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 5100 OF 2013 @ SLP(C) NO. 36341 OF 2011

BIHAR STATE TEXT BOOK WORKERS UNION

Appellant (s)

VERSUS

STATE OF BIHAR & ANR

Respondent(s)

Date: 08/07/2013 This Appeal was called on for pronouncement of judgment today.

For Appellant(s)

Mr. M.P. Jha, Adv.

For Respondent(s)

Mr. Gopal Singh, Adv.

Hon'ble Mr. Justice S.A. Bobde pronounced the judgment of the Bench comprising of Hon'ble Dr. Justice B.S. Chauhan and His Lordship.

Leave granted.

Appeal is allowed in terms of the signed non-reportable judgment.

**(ANITA MALHOTRA)
Sr. PA**

**(M.S. NEGI)
Court Master**

(Signed non-reportable judgment is placed on the file)

JUDGMENT

SUPREME COURT OF INDIA



JUDGMENT