

SUPREME COURT OF INDIA

Bihar State Text Book Workers Union

Vs.

State of Bihar

C.A.No.5100 of 2013

(Dr.B.S.Chauhan and S.A.Bobde JJ.)

08.07.2013

ORDER

1. 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-matriculantes, 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.