

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10599 of 2015

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1. Sanjay Kumar, S/o Yogendra Kumar, resident of village- Sarahi, Ward No. 03,
P.O.- Bengha, P.s.- Saharsa, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
3. The Secretary, Rural Development Department, Government of Bihar, Patna.
4. The Commissioner, Saharsa Division, Saharsa.
5. The District Magistrate-cum-District Employment Committee, Saharsa.
6. The Deputy development Commissioner-cum-deputy Chairman, District Employment Committee, Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Subodh Kumar Jha
Mr. Bidhan Chandra Jha

For the Respondent/s : Mr. Krishna Kumar Singh, AC to GP 17

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 05-10-2015

Petitioner was one of the applicants for selection on the post of *Gramin Aawas Sahayak*. The advertisement is Annexure- 1 to the writ application, which is dated 21.10.2013. Petitioner applied and got considered but did not make it to the final merit position. He decided to file the writ application for a direction upon the respondents to consider his case since more than eight vacancies still exist.

The State in the counter affidavit have taken a stand that based on the declaration made in the online application filed by the petitioner, due weightage and marks were awarded to him

and since it did not add up to the numbers of the short listed candidates on merit position, he was not appointed on contract as it is not a substantive appointment but contractual one.

Learned counsel representing the petitioner submits that the petitioner had mathematics in the graduation for which he should have been awarded appropriate weightage of 10 marks, which has not been done. Even now if petitioner is awarded 10 marks, he ends up with higher marks vis-à-vis those selected.

The reason why the petitioner was not awarded 10 extra marks is non-declaration by the petitioner himself that he had maths as one of the papers in B.Sc. Respondents no.2 and 3 in their counter affidavit have annexed the application form of the petitioner as Annexure- B. In the column- 'Math in Graduation', the answer of the petitioner is 'No'. The total point earned by the petitioner indicated therein is 85.56.

Counsel for the petitioner submits that it was a bona fide mistake since he had B.Sc. in graduation, therefore, he presumed in his favour. He had made application before the authorities seeking certain correction within months of the application made online but that was ignored and appointments came to be made.

The omission is on the part of the petitioner, which is





evident from his application. There was no business for the respondents to award him extra marks when other similarly situated candidates had made a clear declaration, which is evident from Annexure- C to the counter affidavit. The appointments have been made. The panel was valid for a year. Since such appointment is not a substantive appointment but a contractual one, this Court is not inclined to give any direction for any consideration merely because eight posts have remained vacant.

There is no arbitrariness or element of discrimination. The decision of the respondents is based on the declaration made by the petitioner in the application form submitted by him.

There is no merit in the writ application. It is dismissed.

(Ajay Kumar Tripathi, J)

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