

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.388 of 2014

In
Civil Writ Jurisdiction Case No. 21416 of 2012

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Dr. Vijayendra Prasad, S/o Late Khublal Prasad, Resident of 5A/30, North S.K. Puri, Patna 13, the then posted as Senior Resident Department, Anaesthesia, Vardhman Institute of Medical Science, Pawapuri, Nalanda and deputed at PMCH, Patna, P.S. Pirbahore, District - Patna

.... Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Department of Medical Education and Family Welfare, Government of Bihar, New Secretariat, Patna
2. The Principal Secretary, Department of Medical Education and Family Welfare, Govt. of Bihar, New Secretariat, Patna
3. The Additional Director, Department of Medical Education and Family Welfare, Government of Bihar, New Secretariat, Patna
4. The Deputy Secretary to the Government, Department of Medical Education and Family Welfare, Government of Bihar, New Secretariat, Patna
5. The Principal, Patna Medical College and Hospital, Patna
6. The Bihar Public Service Commission through its Secretary, Bailey Road, Patna

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. S.D. Yadav, Advocate
For the Respondent/s	:	Mr. Sanjay Sinha, AC to GA-4
For B.P.S.C.	:	Mr. Ashok Kumar Singh, Sr. Advocate
	:	Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

4 16-09-2015

Heard learned counsel for the parties.

2. The petitioner filed C.W.J.C. No. 21416 of 2012 praying therein to quash the result of Assistant Professor, Anesthesia, published in daily newspaper 'Hindustan' on 20.10.2010, by the Bihar Public Service Commission (hereinafter referred to as 'the Commission') and to direct the Commission to

declare him successful for appointment to the said post.

3. In course of hearing of writ petition, the petitioner limited his prayer to declare him successful for appointment to the post of Assistant Professor of Anesthesia.

4. The facts of the case in short is as follows:

The petitioner applied for the post of Assistant Professor (Anesthesia) along with other candidates. 80 marks for Education qualification/experience and 20 marks were kept for interview. Securing of a minimum of total of 10 marks, on the basis of education qualification, experience and publications in recognized journals, as a principal author, was a requisite condition, for being called for interview for appointment on the post of Assistant Professor.

5. The Health Department had constituted an Expert Committee to examine the eligibility of the candidates as per the norms. The candidates, who were found eligible, were issued interview letters on 11.06.2012 for appearing before the interview board. The Expert Committee awarded 8 marks towards Publication of journals and further 5 marks, total 13 marks to the petitioner.

6. As the petitioner has not submitted his original publications and principal author certificate, the Commission



directed him to submit the papers before the date of interview, which was fixed for 10.07.2012. The interview board opined that the publication of the petitioner was only a case report, recent topics and essay type, and thus deducted 8 marks, which brought total marks of the petitioner to 5 marks, which was less than mandatory 10 marks required for being eligible for interview. The Commission approved the report of the Expert Committee. The petitioner asserted before this Court that his publications were not a case report or easy type publication, but were original publication/research work.

7. The writ application was disposed of with a liberty to the petitioner to represent to the Commission and Expert Committee that the publications are original publications, as a principal author.

8. The petitioner has sought review of the order on the ground that as per advertisement and Rules, a candidate will be treated as principal author of the publication, if he/she produces certificate to the aforesaid effect from the Professor Incharge or Head of Department of the subject, under whom he/she has prepared the paper.

9. The petitioner states that the head of the department has endorsed that he is the principal author of the

publication and as such the publication should be considered his original publication and due marks ought to have been allotted for these publications. The petitioner in support of his submission has referred to para 52 of the order passed in case of Sudhir Kumar Vs. The State of Bihar & Others (C.W.J.C. No. 10596 of 2012), heard analogous with batch of cases in connecting matters.

10. It is relevant to state here that additional marks were to be allotted for original publication as principal author in recognized journals. As per Clause 5.4 of the advertisement, a candidate will be treated to be principal author of a publication, if he/she produces a certificate to this effect from the Professor Incharge or Head of Department of the subject under whom he/she has prepared the paper. (a) One mark was to be allowed for each publication in State Medical Journal subject to maximum of 2 marks. (b) 2 marks for each publication in All India Medical Journal or a Foreign Medical Journal of category indicated therein subject to maximum of 10 marks.

11. It is relevant to state here that the endorsement by the Head of the Department will only establish that the petitioner is the principal author of the publication, but all, or any publication would not earn marks and only such publications, which are of research works, would fetch marks, as the

appointment was being made on the post of Assistant Professor.

12. The publications of the petitioner were found to be mere a case report, recent topic and easy type publication, which cannot be treated as original publication.

13. I find no error of record in para 52 of the judgment passed in C.W.J.C. No. 10596 of 2012. Furthermore, this Court has disposed of the case of the petitioner with liberty to him to approach the expert committee to satisfy them that the publications would come in the category of original publication to earn points as prescribed under the Advertisement.

14. In the circumstances, no case for review is made out. In the result, this application is dismissed.

(Samarendra Pratap Singh, J.)

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