

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.132 of 2015

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Gautam, S/o Sri Chandra Shekhar Singh, permanent resident of Kamalpur Singhiya,
PO Bidupur Bazar, PS Bidupur, District Vaishali

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Department of General Administration, Govt. of Bihar, Patna
3. The Principal Secretary, Department of Science and Technology, Govt. of Bihar, Patna
4. The Additional Secretary, Department of Science and Technology, Govt. of Bihar, Patna
5. The Director, Department of Science and Technology, Govt. of Bihar, Patna
6. The Joint Secretary, Technical Education, Ministry of Human Resources Development, Govt. of Bihar, Patna
7. The Bihar Public Service Commission, through its Secretary, Bailey Road, Patna
8. The Joint Secretary-cum-Controller of Examination, Bihar Public Service Commission, Bailey Road, Patna
9. All India Council for Technical Education through its Member Secretary, New Delhi

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Gaurav Govind
For the State : Mr. H S Sundaram, AC to SC 10
For B P S C : Mr. Sanjay Pandey

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 30-01-2015

The petitioner is an Engineering Graduate. The respondents framed the Bihar Polytechnic Education Service Rules, 2014 (for short, 'the Rules') prescribing the conditions of service of different kinds of employees who work in the polytechnic institutions. Rule 7(a) stipulates minimum 22 years of age for the post of Lecturer. Recently, a notification is also issued inviting applications for the post of Lecturer and other teachers.

The grievance of the petitioner is that he is below 22

years of age, and on account of the stipulation of age of 22 years, he is precluded from applying to the post. In this context, he challenges rule 7(a) of the Rules.

Heard Sri Gaurav Govind, learned counsel for the petitioner, Sri H S Sundaram, learned counsel for the State and Sri Sanjay Pandey, learned counsel representing the Bihar Public Service Commission.

The petitioner is no doubt falling short of stipulated age limit by a few months. It is fairly well settled that an employer has the prerogative to stipulate the conditions of service for their employees. It is only when the condition is found to be contrary to any specific provision of law that this Court can interfere.

The petitioner is proceeding on the assumption that he has a fundamental right to be considered for appointment as soon as he completed the engineering examination. The mere fact that he passed the qualifying test prescribed for a post does not absolve him from the obligation to comply with the other conditions. The petitioner is not able to state as to how the condition challenged in this writ petition is contrary to law.

We, therefore, dismiss the writ petition.

Interlocutory Application, if any, shall stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

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