

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5597 of 2011

Sanjeev Kumar, son of Late Bhola Prasad, resident of village Bihariganj, P.O. Bihariganj, Police Station Bihhariganj, District Madhepura

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary health Department Patna
2. Bihar Public Service Commission through its Chairman 15 Jawahar Lal Nehru Road (bailey Road), Patna 800001
3. Chairman, Bihar Public Service Commission, 15 Jawahar Lal Nehru Road (Bailey Road) Patna 800001
4. Deputy Secretary Bihar Public Service Commission, 15 Jawahar Lal Nehru Road (Bailey Road), Patna 800001

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Amit Prakash

For the Respondent/s : AC to AAG13
Sri Sanjay Pandey

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 16-12-2015

Heard Sri Amit Prakash, learned counsel for the petitioner ,
learned AC to AAG No. 13 who has appeared on behalf of the
respondent /State and Sri Sanjay Pandey, learned counsel for the
respondent no. 2 to 4 / Bihar Public Service Commission.

The petitioner, invoking writ jurisdiction of this court under
Article 226 of the Constitution of India, has prayed for directing the
respondents to call him for interview for the post of Drug Inspector.
He has also questioned the decision of the respondent/ Bihar Public
Service Commission regarding non- consideration of 17 questions
out of 400 questions.

Short fact of the case is that pursuant to an advertisement



published in the year 2008 vide advertisement no. 02 of 2008 for the post of Drug Inspector (Allopathic) the petitioner applied. He qualified in the written test since he had obtained 160 marks out of 383 marks, however, he was not called for interview. A plea has been taken that once as per the advertisement 36.5 % marks was mentioned as cut off marks, the petitioner after obtaining marks above cut off marks was entitled to be called for interview. It has also been claimed that as per statutory rule against one post three candidates were required to be called for interview whereas ratio in the matter was fixed as 2.5 to 1 vacancy. It has also been argued that without any authority, from total marks of 400, 17 marks were deducted. On the aforesaid grounds it has been prayed for directing the respondents to allow him to participate in the interview for the post of Drug Inspector.

Sri Pandey, learned counsel for the respondent/B.P.S.C. opposing the prayer of the petitioner has referred to the averments made in the counter affidavit specifically paragraph no. 10, 11, 12, 13. He submits that since there were certain errors, 17 questions were excluded after the report of the Expert Committee and as such for all the candidates who had appeared in the examination pursuant to the said advertisement total marks was prescribed as 383. It is not a case that 17% mark was deducted in respect of only petitioner. It was



equally applicable to all the candidates who had appeared. He further submits that petitioner in the written examination had obtained 160 marks and he was claiming appointment against reserved backward category. By way of referring to the averment made in paragraph no. 11 of the counter affidavit Sri Pandey submits that the last candidate in the category of the petitioner had obtained 180 marks. He reiterates that none of the candidates under the reserved category having lesser marks or even equal marks to the petitioner were called for interview and as such according to him there is no illegality.

Besides hearing learned counsel for the parties I have also perused the materials available on record. In the case advertisement was published in the year 2008. The petitioner participated in the written examination. Since the candidates in the category of the petitioner having much higher marks than the petitioner were available they were called for interview. After interview final selection list was prepared and it was sent to the Government on 26.11.2010 as stated in paragraph no. 8 of the counter affidavit. Much after the recommendation was made the present writ petition was filed on 26.3.2011. Meaning thereby that even though the petitioner was not called for interview, the petitioner immediately did not raise any objection. Only after recommendation was made after completion of interview the petitioner has approached this court. In this case none of

the persons having lesser mark than the petitioner has been accommodated and as such, the court is of the opinion that none of the rights of the petitioner has been infringed and in absence of infringement of any right it would be difficult for this court to issue any writ.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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