

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1559 of 2016

IN

Civil Writ Jurisdiction Case No. 8469 of 2016

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1. The Bihar Public Service Commission through its Chairman, Patna
2. The Secretary, Bihar Public Service Commission, Patna
3. Joint Secretary cum Controller of Examination, Bihar Public Service Commission, Patna

.... Appellants

Versus

1. Ajeet Kumar, S/o Sri Anandi Prasad, resident of Village Nanand, P.O. Nanand, P.S.- Silao, District Nalanda.
2. The State of Bihar through the Principal Secretary, Department of Science & Technology.

.... Respondents

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Appearance :

For the Appellants : Mr. Lalit Kishore, Sr. Advocate
Mr. Sanjay Pandey, Advocate
For Respondent No.1 : Mr. Harsh Singh,
Mr. Ravi Shankar Choudhary, Advocates
For the State : Mr. Anil Kumar Sinha, GA1

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 05-12-2016

Heard learned senior counsel for the appellants and learned counsel for the respondents.

2. The challenge in the present Letters Patent Appeal under Clause X of the Letters Patent is to an order passed by the learned Single Bench on 4th of July, 2016 in CWJC No. 8469 of 2016 whereby the appellant-Bihar Public Service Commission (hereinafter referred to as “the Commission”) was directed to declare the results of all such candidates who were allowed to participate in the written examination and depending upon the results for further consideration for selection.

3. A series of advertisement was issued by the Commission - the appellant, for appointment on the post of Assistant Professor in



various subjects in the Engineering Colleges. The writ applicant was a candidate for appointment to the post of Assistant Professor in the Computer Engineering/Computer Science. He was issued admit case for appearing in the written examination against the advertisement no. 23/2014 for the said subject. His name was not found in the list of eligible candidates when result was declared. On enquiry, it was found that the candidature of the writ applicant has been rejected for the reason that he failed to mention the advertisement number and subject in the application form.

4. In writ application, challenge was to reject of his candidature. The learned Single Bench found that the admit card was issued to the writ applicant which clearly indicated as to which examination he was permitted to participate. Similar may be the case for other candidates as the admit cards could have been issued to them against the advertisement and for the subject. In view of the said fact, the writ application was allowed.

5. Learned senior counsel for the appellants refers to a decision of the Supreme Court in T. Jayakumar Vs. A. Gopu & anr. [(2008) 9 SCC 403] wherein a candidate was made to participate in the selection process by being called for interview but it was held that the principle of promissory estoppel has no application in the selection process if the application form has not been properly submitted. However, a perusal of the said judgment shows that in the aforesaid case a candidate had not signed the application form which was received within the time



fixed. But, he sent another application duly filled up and signed by him when he realized that his application form is not signed. Such application form was received after the last date for submission of the applications. In the circumstances, the Court said that the application submitted by the candidate within time, cannot be said to be a proper application and, therefore, will not create any estoppel, if he was called to appear in the interview.

6. But in the present case, the mistake is insignificant inasmuch as there is only omission to mention the advertisement number and the subject. Admittedly, the writ applicant has been issued admit card in respect of the subject of Computer Engineering/Computer Science for which he was a candidate. Therefore the Commission was not misled in respect of the omission to fill up the advertisement number and the subject.

7. Considering the above, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the intra-court appeal. The same is dismissed.

(Hemant Gupta, ACJ)

B.T/-

(Vikash Jain, J)

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