

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8469 of 2016

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1. Ajeet Kumar S/o Sri Anandi Prasad, R/o Village Nanand, Post Nanand, Post Nanand, P.S- Silao, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Science & Technology, Patna.
2. The Bihar Public Service Commission through its Chairman, Patna.
3. The Secretary, Bihar Public Service Commission, Patna.
4. Joint Secretary cum Controller of Examination, Bihar Public Service Commission, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Harsh Singh
For the State	:	Mr. Anil Kr. Sinha, GA9
For the BPSC	:	Mr Sanjay Pandey

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 04-07-2016

Vide Annexure- 1, an advertisement was issued by Bihar Public Service Commission (hereinafter to be referred to as 'BPSC') for appointment on the post of Assistant Professor in various branches of study. The advertisement numbers indicated in the advertisement is 16/2014 to 28/2014. We are concerned with advertisement no.23/2014 relating to Computer Engineering/ Computer Science.

Case of the petitioner is that after he applied in response to the said advertisement, BPSC published a list of eligible or provisionally admitted candidates for written examination for advertisement no.23 of 2014. Name of the petitioner did find mentioned at serial 205 of the said list of eligible candidates. This

fact is corroborated by Annexure- 2 to the writ application. Annexure- 3 is the admit card issued in favour of the petitioner and the admit card clearly indicates that this is for participation in the written examination for Computer Engineering/ Computer Science.

Petitioner participates in the written examination, was awaiting publication of the result till to his shock and horror, Annexure- 5 was issued showing a list of candidates, including the present petitioner, to be ineligible on account of the petitioner having failed to indicate the advertisement number and the subject for which he applied for, in his application form.

Writ has been filed by the petitioner for quashing of the said Annexure-5 as well as for a direction upon the respondents to publish his results and give an opportunity of consideration.

Stand of the BPSC in the counter affidavit is that failure on the part of a candidate to indicate the advertisement number as well as the subject was one of the condition for rejecting the application form and consideration of candidature of a candidate. When the Commission verified the application status of various candidates after the examination, they found this infirmity and because of this infirmity they issued Annexure- 5 after taking a conscious decision to declare such candidates to be ineligible or disqualified, for any further consideration. It is long list of such candidates, in various subjects as

is apparent from Annexure- 5.

Counsel for BPSC also draws attention on the Commission's decision contained in Annexure- D in this regard. It is his stand that such a decision was taken keeping in mind the opinion of this Court expressed in a previous writ application in the case of Bittu Kumar vrs. The State of Bihar & others, decided on 29.3.2016 contained in Annexure – C. In that case this Court while dealing with a similar kind of dispute upheld the decision of the BPSC and refused to give any direction in favour of all those ineligible candidates for the omission committed by them in such declaration.

The rationale and reasoning provided by this Court in the case of Bittu Kumar may not be squarely available or applicable in the present case. The Court could have very well appreciated if non-declaration of the advertisement number and the subject created any confusion about a candidate's intent as to the post for which they were applicant. From the materials available on record, it is evident that despite non- declaration of the advertisement number or the subject in the application form, but because of the declaration of the advertisement number and the subject on the envelope etc., the petitioner and similar candidates had been permitted to sit in the examination as per their subject. The admit card of the petitioner clearly indicates as to which examination he was permitted to



participate and similar may be the case of other candidates as well because if it was not so, admit cards would not have been issued to them against the advertisement and the subject. All these candidates including the petitioner were shown to be eligible in terms of Annexure- 2. They have gone through the written examination. Now it is too late in the day to defeat or take away their right for further consideration on the hyper technicality that the advertisement number as well as the subject column had been left vacant in the application form.

The distinction between the case of Bittu Kumar and the present petitioner is that candidature of Bittu Kumar and the likes of him had been rejected at the threshold. In the present case the petitioner and many others in identical situation have been allowed to participate in the examination by BPSC. When it came down to declaration of results, BPSC is taking a stand which, in the opinion of this Court, is irrational, arbitrary and may be even rewarding their own omission in being diligent in scrutinizing application at the threshold.

Since the entire exercise has been undergone by these candidates including the petitioner by permitting to sit in the examination, the Court would not allow BPSC to reject their candidature for further consideration only on this ground.

This Court will not confine itself to granting relief to the petitioner alone. In fact, the petitioner’s case will be considered as one of the examples of irrationality having been demonstrated in the decision making of the BPSC, therefore, BPSC is directed to declare the results of all such candidates, who were allowed to participate in the written examination and depending upon the results further consideration for selection would be required to be made.

Writ application stands allowed with the above direction.

(Ajay Kumar Tripathi, J)

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