

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.925 of 2014

IN

Civil Writ Jurisdiction Case No. 17215 of 2013

Chandra Mohan Kumar Tiwari s/o late Braj Kishore Tiwari r/o Mohalla Santi
Nagar, P.S. Bettiah Town, Dist. West Champaran

.... Appellants

Versus

1. The State of Bihar
2. The Director of Agriculture, Department of Agriculture, Government of Bihar, Patna
3. The Director, Bihar Agriculture Management & Extension Training Institute (BAMETD) Department of Agriculture, Government of Bihar, Patna
4. The Commissioner Agriculture Department, Department of Agriculture, Government of Bihar, Patna
5. The Secretary, Agriculture Department of Agriculture, Government of Bihar
6. The District Magistrate, Bettiah, West Champaran
7. The District Agriculture Officer Bettiah West Champaran
8. The District Development Commissioner, Bettiah West Champaran

.... Respondents

Appearance :

For the Appellant/s : Mr. Dhannjay Kumar No 2, Advocate

For the Respondent/s : Mr. Ashok Kumar, SC-11

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 08-03-2016

Heard learned counsel for the appellant and learned
counsel for the State at length, and with their consent, this appeal is being
disposed of at this stage itself as pleadings are complete.

2. The question in the present appeal is, whether the work
experience of a person appointed on contract basis for an honourarium of
Rs. 25,00/- per month as Kishan Salahkar would be a service under the
State Government in the Department of Agriculture for the purposes of
grant of weightage when it comes to selection for appointment as
Agricultural Coordinator which post at that time was also a contractual

engagement.

3. The appellant had been recruited as Kishan Sahalkar. The appointment letter is Annexure-5 to the Interlocutory Application No. 6243/2013, as filed in the writ proceeding. The appointment letter clearly states that the appointment is purely contractual on an honourarium of Rs. 25,00/- per month. Let it be noted that, subsequently, it appears the same has been increased to Rs. 8,000/- per month. The appointment letters are of the year 2010. The job of the appellant was to be available at his place to offer advice to agriculturists, who may seek guidance. He had to have B.Sc. Agriculture Degree. The appointment was for a fixed period.

4. It appears that in the year 2013, an advertisement was issued by the State Government for appointment of Agricultural Coordinator again on a contractual basis. One of the conditions was that a person had to be an Agricultural Graduate and if he had the experience of working in the Agriculture Department of the State he would be given weightage depending upon the period of experience.

5. The contention on behalf of the appellant is that initially, when he had sought for experience certificate to be granted, he was not granted experience certificate, and consequently, he could not avail of the weightage when he made application for Agricultural Coordinator as aforesaid. A reference to order dated 06.09.2013 in the writ proceeding would show both these contentions. Ultimately, the writ petition was disposed of directing the authorities to issue necessary experience certificates. Certificates now having been issued, but they are not being granted the necessary experience weightage as per the advertisement, and that is the grievance which subsists at this appellate



stage. According to the appellant he has worked in the Agriculture Department of the State, and accordingly, he is entitled to weightage as provided in the advertisement. On the other hand, supplementary counter affidavit has been filed by the State, wherein State has taken a policy decision that work experience in the Agriculture Department would mean, work experience as an employee of the State in the Agriculture Department, meaning thereby, he has to be a permanent employee of the State. It is stated that the appellant was merely on contractual appointment as Agricultural Consultant on a small honourarium. He was not a permanent employee, muchless employee of the State Government. No service book was opened in respect of him. He is not beneficiary of retiral dues payable by the Government. He is not in any pay scale in respect of any cadre of service under the Government, hence, he is not in regular employment of the Government, therefore, experience weightage cannot be given to him.

6. We have considered the matter, in our view, the contention on behalf of the State is correct. By the expression in 'service under the Agriculture Department of the Government' would predicate a permanent service, wherein the employee could claim benefit available to all government servants, it would contemplate a cadred service. The appointment of the appellant, on his own showing, was an appointment on contract, merely as consultant of the agriculturists, on a paltry honourarium. This by no means can be said to be employment in this Agriculture Department under the State Government.

7. Thus, contention of the appellant, that, he is entitled to weightage for his experience in the matter of selection of Agriculture

Coordinator, cannot be accepted. We may, however, clarify that though he may not be entitled to the weightage for the purpose of experience in respect of government service, nevertheless, he is eligible. Eligibility and weightage for experience are two different things, one is making a person eligible to apply, and the other is, when it comes to selection process, the weightage to be given.

8. Here, we may note that now the post of Agricultural Coordinator has been made permanent post by the State Government and cadre rules have also been framed, it is no more a contractual post. The recruitment is now to be done by the Bihar Staff Selection Commission.

9. In view of the aforesaid, we find no merit in this appeal. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/A.F.R.

U			
---	--	--	--