

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13827 of 2015

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Abhijeet Kumar son of Sri Surendra Singh, resident of Village - Gandhi Nagar,
Behind S.D.O. Colony, Masaurhi, P.S. Masaurhi, Distt. - Patna

.... Petitioner/s

Versus

1. The Union of India, through its Secretary, Deptt. of H.R.D., Govt. of India, New Delhi
2. The Director, National Institute of Technology, Patna
3. The Chairman, Scrutiny Committee, National Institute of Technology, Patna
4. The Registrar, National Institute of Technology, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar Singh
For Union of India : Mr. Anshay Bahadur Mathur, CGC
For N I T : Mr. Y V Giri, Sr. Advocate
Mr. S K Giri

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 01-03-2016

Petitioner is one of the failed candidates who could not make it on the post of Technical Assistant on contract basis as per Advertisement No. NITP/06/14, published on 03/07/2014.

2. Petitioner files the writ application on the ground that halfway down the selection process, the rules of the game have been changed by the respondent NIT, Patna and that is impermissible in law. There is no quarrel on the proposition but there is some difficulty in applicability of the principles to the given set of facts.

3. In the normal course of things, the Court could have very well dismissed the writ application of the petitioner on the ratio and



the proposition decided by another Bench of this Court in an identical matter which was the case of **Ajad Kumar Vs. Union of India and others**, i.e. **CWJC No. 5786 of 2015**, decided on 15.05.2015, a copy of which is Annexure-A to the counter affidavit, filed on behalf of the NIT. This is so because the reason given by the learned Single Judge also applies to the fact and ratio of the present case.

4. Despite the above, this Court wanted to have a re-look on the submission made that the respondents have changed the rules of the game midway through selection and whether that has become the reason for non-selection of the petitioner.

5. The thrust of the argument is based on the clarification which has been annexed as Annexure-5 to the writ application. Reading of the clarification, according to the counsel for the petitioner, is that the selection was supposed to be based on online test and trade test, followed by interview but by virtue of this clarification it is the interview which has formed the basis for selection and that is contrary to the advertisement.

6. Annexure-2 is the advertisement, annexed by the petitioner with the writ application. Counsel representing the NIT vehemently denies and opposes the petitioner on the interpretation being sought to be given on Annexure-5. Court's attention was drawn to the conditions of the advertisement, especially on page 11, which

indicates the selection criteria and is quoted herein below:

“Selection Criteria: The Candidates are required to appear in the Trade Test. Only those candidates who qualify in the trade test will be eligible to appear in the interview.”

7. Counsel for the NIT thereafter further points out the instructions, which are part of advertisement at page 15 of the writ application. Since instructions No.1, 2 and 3 are more significant, they too are reproduced herein below:

“Instructions:

- 1. For recruitment of Technical Assistant post there will be On-line test, Trade test and Interview. Duration of the On-line test will be one hour. There will be negative marking and one mark will be deducted for each wrong answer. For each correct answer there will be 4 marks. Questions will be of multiple choices.***
- 2. Candidates (General and OBC Category) scoring minimum 50% marks in the On-line test will be eligible for trade test. 5% relaxation in marks will be given to SC/ST/PH candidates. Trade test will be of 100 marks.***
- 3. Candidates (General and OBC Category) scoring minimum 50% marks in the trade test will be eligible for Interview. 5% relaxation in marks will be given to SC/ST/PH candidates. Interview will be of 100 marks.”***

8. If these two quotations are read in junction with what has been stated in Annexure-5 then learned counsel for the NIT seems to be correct that the clarificatory notification, contained in Annexure-5, only indicates in simple words what was going to be the process of selection.

9. Every candidate was required to participate in online test. If he succeeded in getting minimum 50% marks in the online test, he would be permitted to sit in the trade test. If a candidate managed to get 50% marks in the trade test, then only he will qualify for participation in interview and interview will be the final basis for selection. Online test and trade test was part of requirement to qualify.

10. Even this attack, therefore, made by the petitioner fails besides what the learned Single Judge has to say in the case of Ajad Kumar, noticed above.

11. Writ application, therefore, has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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