

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1302 of 2016

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1. Prashant Kumar Jha S/o Sri Ram Chandra Jha Resident of Village Nathpatti,
P.S. Baluwa Bazar, District - Supaul.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, New Secretariat, Patna.
2. The Secretary-cum-Executive Director, State Health Society, Bihar having its office at Pariwar Kalyan Bhawan, Sheikhpura, Patna.
3. The District Magistrate-cum-Chairman, District Health Committee, Supaul.
4. The Civil Surgeon-cum-Secretary, District Health Society, Supaul.
5. The Additional District Magistrate-Cum-District Health Committee, Supaul.
6. The District Malaria Officer, District Health Committee, Supaul.
7. The District Programme Manager, District Health Superintendent, Supaul.
8. Binay Kumar S/o Binod Kumar District Physiotherapist, Sadar Hospital, Supaul.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Jugal Kishor, Sr. Advocate
For the State	:	Mr. Rajeev Shekhar, AC to GA-13
For State Health Society		Mr. K.K. Sinha, Advocate
		Mr. Shashi Shekhar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-04-2017

Seeking exception to an order dated 19.5.2014 passed by the learned Writ Court in C.W.J.C. No.8659 of 2014, dismissing the writ petition filed by the petitioner and refusing to interfere with the appointment made to the post in question, this appeal has been filed under Clause 10 of the Letters Patent.

2. The petitioner was a candidate who had applied for



appointment with the State Health Society for recruitment on the post of Physiotherapist on contract basis. As per the advertisement issued for appointment to the post in question, the qualification prescribed was that a candidate should have passed a degree course in Physiotherapy and certain marks were to be awarded as notified by the Selection Committee for the said educational qualification.

3. Petitioner initially obtained a three and a half diploma in Physiotherapy and thereafter undertook an abridged degree course of one year for the subject in question conducted by Magadh University. With the petitioner many other candidates, who had completed four and a half year degree course in Physiotherapy, were also the candidates who had applied. The Selection Committee conducted the process of selection and awarded marks on various counts. Certain marks were also awarded based on the marks obtained in each year of the degree course. For the candidate who had appeared in the four and a half year degree course, marks obtained by them in each year of the degree course were calculated, whereas in the case of the petitioner only the marks obtained by the petitioner in the one year abridged course was considered. It was the case of the petitioner before the writ Court that the marks obtained in the three and a half year diploma course should also be taken note of and counted and in not doing so an illegality has been committed.



4. The learned Writ Court having rejected this contention, petitioner is before us in this Appeal and canvasses the same contention as is detailed hereinabove which was canvassed by him before the writ Court.

5. As observed by the learned Writ Court, we find that the four and a half year degree course and one year abridged course after three and a half year diploma course were declared to be equal for the minimum required qualification for appointment to the post in question. Even if that be so, when the Selection Committee took the decision only to award marks obtained by a candidate every year during the degree course, the petitioner cannot claim that his marks obtained in the diploma course should also be calculated. The petitioner, admittedly, had only done one year abridged degree course after three and a half year diploma course and, once the marks of the one abridged degree course has been calculated, we see no error in the same as the marks obtained by the petitioner during the three and a half year diploma course, when he was undergoing the diploma course, are not marks obtained by him while prosecuting a degree course and if the aforesaid marks were not taken note of, the authorities have not committed any error warranting interference and the learned Writ Court has also taken note of these factors in its right perspective and we see no error in



the same warranting re-consideration.

6. The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
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