

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2469 of 2016

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The Union Of India through the Director, Indian Council of Agricultural Research Complex for Eastern Region, ICAR Parisar, PO- Bihar Veterinary College, Patna-14

.... Petitioner/Respondent

Versus

1. The Member, Central Administrative Tribunal, Patna Bench, Patna.
..... Respondent
2. Dayanand Prasad, S/o Late Ram Anugrah Prasad, resident of Mohalla- Aga Hussain Ka Chouraha (Near Chhoti Maszid Nayatola), P.O. - Begumpur, District – Patna.
.....Applicant/Respondent
3. The Administrative Officer, ICAR, Research Complex for Eastern Region, ICAR Parisar, PO- Bihar Veterinary College, Patna-14.
4. The Asstt. Administrative Officer, ICAR, Research Complex for Eastern Region, ICAR Parisar, PO.- Bihar Veterinary College, Patna-14.
..... Official Respondents.
5. Smt. Sangita Chakrabarti, Assistant, ICAR-RCER, Research Centre Ranchi, TATA Road, Palndu, Namkum, Ranchi- 834010.
.... Respondent

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Appearance :

For the Petitioner/s : Mr. Shri Nath Pathak, Advocate
Mr. Bashant Kumar, Advocate
For the Resp. no.2 : Mr. J.K. Karn, Advocate
For the Resp. no. 5 : Mr. Rajib Ranjan Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 17-08-2017

Heard learned counsel for the petitioner i.e.
Indian Council of Agricultural Research, Patna and learned
counsel for the respondent no. 2 as well as respondent no.



5.

The Original Application (in short the “O.A.”) No. 1003 of 2012 filed by the respondent no. 2 of the present writ application has been allowed by Central Administrative Tribunal (hereinafter referred to as the “Tribunal”), Patna Bench, Patna vide order dated 30th October, 2015.

The non-grant of benefit of promotion under the limited competitive examination conducted by the petitioner became the cause of action for Dayanand Prasad to approach the Tribunal. The Tribunal after hearing the parties and taking note of the guidelines and parameters, which was to govern the process of the said exercise for promotion, was taken note of in paragraphs 4, 5 and 6 of the impugned order.

The Tribunal found infirmity in the modality adopted by the Selection Committee of awarding marks under the head of ‘Experience’ for which there was no provision. The selection was required to be made on the basis of performance in the written examination and awarding of marks out of 150 based on the ACR of the last five years, but in a strange twist to the modality, the



component of experience was introduced which had the effect of totally upsetting the rank and position of the candidates, especially respondent no. 2 of the writ application, i.e., the applicant before the Tribunal.

Since, even during the course of hearing of the writ application, neither the counsel for the petitioner nor the counsel for the private respondent no. 5 have been able to come out with a clear and cogent answer as to how the Selection Committee could introduce the concept of 'Experience' in evaluation contrary to the guidelines and what was the parameters in awarding of marks for experience, the conclusion reached by the Tribunal that the decision of the petitioner to grant benefit of promotion to respondent no. 5 at the cost of private respondent no. 2 cannot be said to be irrational or arbitrary.

In fact, it is the Selection Committee which had deviated from the parameters laid down for such promotion and the inaction on their behalf has led to the embarrassment where promotion of private respondent no. 5 has been annulled and the petitioners have been given a direction to recalculate the marks out of 150 only



on the basis of the ACR and declare the result.

This court does not find any infirmity with the decision of the Tribunal. The Writ Application, therefore, is a misplaced exercise to redeem a situation which is unredeemable.

The Writ Application is dismissed.

(Ajay Kumar Tripathi, J.)

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.08.2017
Transmission Date	NA

