

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14164 of 2017

Sanjay Kumar, S/o Janardan Prasad Singh, R/o Mohalla- Devatralay
Apartment, Bhikhana Pahari, P.S.- Pirbahore, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Secretary, Department of Education, Government of Bihar, Patna.
3. The Additional Secretary, Department of Education, Government of Bihar, Patna.
4. The Bihar Public Service Commission, through its Secretary, 15 Jawaharlal Nehru Marg, Baily Road, Patna- 1.
5. The Secretary, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg, Baily Road, Patna- 1.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Singh
For the Respondent/s	:	Mr. JITENDRA KR. ROY NO-1-SC13
For the BPSC	:	Mr. Sanjay Pandey

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

- 3 05-03-2018 The writ petition was originally filed seeking direction to the respondent authorities, particularly, the Bihar Public Service Commission to produce the result of the petitioner based on interview for appointment to the post of Assistant Professor in the subject Philosophy, held pursuant to the Advertisement No. 51. He has also sought for a direction that if it is found that the petitioner has got marks above the cut off marks, a direction be issued to the Bihar Public Service Commission to recommend the petitioner's name for appointment to the said post of Assistant Professor.



During the pendency of this writ application, the petitioner appears to have received the information from the Bihar Public Service Commission showing marks allotted to him, which is as follows:-

मैट्रिक	—	09.80
इन्टर	—	10.00
स्नातक	—	18.50
स्नातकोत्तर	—	26.25
कुल	—	64.55
साक्षात्कार	—	10.00
योग	—	74.55

The petitioner holds Ph.D. degree, but, admittedly not as per University Grants Commission (Minimum Standard and Procedure and Award of Ph.D.) Regulation, 2009. He had cleared Bihar Eligibility Test (BET), held in the year 1996, which had made him eligible for being considered for appointment to the post of Assistant Professor in view of the Division Bench decision of this Court, in the case of **Jagdish Jha v. The State of Bihar and Others**, and another analogous case, dated 21.09.2016 (**LPA Nos. 227 of 2016 and 511 of 2016**).

It is the petitioner's grievance that in terms of Schedule-V of the Advertisement inviting application for appointment to the post of Assistant Professor, the petitioner ought to have been awarded 5 (five) marks for his Ph.D. qualification, he being a



BET qualified candidate.

This is to be noticed that as per the Advertisement, candidate in order to become eligible for appointment to the post of Assistant Professor must have passed National Eligibility Test (NET), State Eligibility Test (SET) or qualification test accredited by the University Grants Commission. Schedule V of the said Advertisement prescribe weightage for Ph.D. or M. Phil degree. To be given to the candidates, which reads thus:-

Schedule-V

Marks for Ph.D. or M. Philosophy

Sl. No	Grade Points	Marks
1	Ph.D. as per UGC Regulations 2009 and with NET	10.00
	Ph.D. as per UGC Regulations 2009 and without NET	7.00
2.	Ph.D. not as per UGC Regulations 2009 and with NET	5.00
3.	M. Phil as per UGC Regulations 2009 and with NET	4.00
4.	M.Phil not as per UGC Regulations 2009 and with NET	2.00

A careful reading of Schedule-V of the said Advertisement makes it manifestly clear that it was decided to award 5 (five) marks for Ph.D. candidates who obtained such degree not as per University Grants Commission (Minimum Standard and Procedure and Award of Ph.D.) Regulation, 2009, if they were



NET qualified. The said Schedule-V did not prescribe award of the said marks for those candidates also, who were SET qualified or BET qualified.

Learned counsel appearing on behalf of the petitioner has submitted that the petitioner ought to have been given 5 (five) marks for his Ph.d. qualification, though it was not as per University Grants Commission (Minimum Standard and Procedure and Award of Ph.D.) Regulation, 2009, since he was BET qualified.

I am not convinced with the submission so made. The process of selection is to be completed strictly in terms of the advertisement. The advertisement did not contemplate award of marks for “Ph.D. not as per UGC Regulations, 2009”, without NET qualification. NET is a test held by the University Grants Commission. No such concession or relaxation was provided in the advertisement for award of marks in case the candidates were holding Ph.D. qualification not as per University Grants Commission (Minimum Standard and Procedure and Award of Ph.D.) Regulation, 2009, with SET qualification. What was not there in the Schedule-V cannot be read into it for the purpose of entertaining the grievance of the petitioner.

Learned counsel for the petitioner has submitted that the



petitioner has missed the chance only by fraction of marks. That itself cannot be a ground for issuance of any positive direction for considering the petitioner’s case, in exercise of jurisdiction under Article 226 of the Constitution of India.

Needless to say that if the extent rules permit appointment on the basis of wait-list against unfilled vacancies, it will be open for the Bihar Public Service Commission to make recommendation in case any requisition in this regard is made.

This writ application stands disposed of.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

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