

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.138 of 2014

In
Civil Writ Jurisdiction Case No.20314 of 2011

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Uday Kumar Sharma Son Of Shri Parmeshwar Sharma Resident Of Village
And P.O.- Pondil, P.S.- Kurtha, District- Arwal

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department (Now Education Department), Government Of Bihar, Patna
3. The Member, District Teacher Appointment Appellate Authority, Arwal, District- Arwal
4. The District Education Officer, Arwal
5. The Block Education Officer, Sonbhadra, Suryapur Block, District- Arwal
6. Mukhia, Gram Panchayat, Chamandi, Block- Sonbhadra Banshi, Suryapur, District- Arwal
7. Panchayat Secretary, Gram Panchayat, Chamandi, Block- Sonbhadra Banshi, Suryapur, District- Arwal
8. Uday Singh Son Of Munni Singh Resident Of Village And P.O.- Pondil, P.S.- Kurtha, District- Arwal
9. Ashok Kumar Son Of Ganauri Yadav Resident Of Village- Kurkuri, P.O.- Pinzarwa, P.S.- Kinger, District- Arwal

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Gyanand Roy
For the Respondent/s	:	Mrs Asha Kumari
		Mr Binod Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 29-01-2018

Heard learned counsel for the appellant and learned counsel
for the respondents.

The order dated 17.07.2013 passed by the learned Single
Judge in the two writ petitions, which were heard together and



disposed of upholding award of 20% marks to be added to the percentage seems to be in teeth of the Division Bench judgment rendered in the case of ***Chhotelal Choudhary vs. The State of Bihar & others, reported in 2014 (3) PLJR 606***. The learned Division Bench had this to say in paragraph 6:

“6. Second; Rule 9(v) of the Rules of 2006 employs three different terminologies, namely, “Pratishat” (the percentage), “Aank” (the number) and “Medha Aank” (the merit number). In our opinion all the three words have a different connotation and have to be read as such. The word “Aank” (number) cannot be read to mean “Pratishat” (percentage). For the teaching experience, what is provided is additional marks and not the percentage as submitted by Mr Chaubey. We do agree that the said Rule 9(v) is ambiguous and does not clearly project the Government’s intention. Nevertheless, if we accept the construction put forth by Mr Chaubey, the result would be catastrophic. We are not inclined to accept the construction which would lead to an anomalous situation.”

In view of the same, the impugned order dated 17.07.2013 passed in CWJC No.20314 of 2011 against which the present LPA has been preferred, is quashed. The appeal is allowed. It is clarified that 20 marks is required to be added to the total marks a candidate has earned in the Intermediate Examination and thereafter the percentage has to be calculated and the merit list prepared. No person can gain advantage of 20% over the



calculated percentage of marks which in terms of the Division Bench will have a catastrophic effect on the merit position.

The appeal stands allowed in terms of the above.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.01.2018
Transmission Date	NA

