

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3958 of 2016

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Pawan Kumar Ojha, son of Sri Kanhaiya Lal Ojha, resident of Flat No. 108/B, Hope Narayani Apartment, Vijay Nagar, Rukunpura, Police Station- Rupaspur, Police Station- Rupaspur, District- Patna

.... Petitioner

Versus

1. The State of Bihar
2. The Director, Agricultural, Bihar, Patna.
3. The District Agriculture Officer, Patna.
4. The Deputy Development Commissioner, Patna.
5. The Deputy Development Commissioner, Patna.
6. The Additional District Magistrate (Departmental Enquiry), Patna.
7. The District Horticulture Officer, Patna.
8. The Executive Magistrate, Patna Sadar, Patna.
9. Sharvind Kumar son of Late Kailash Singh, resident of Village- Mahuari, Post Office- Siddipur, District- Patna.
10. Minakshi Kumari daughter of J.N. Roy, C.N. College, Sahebganj, H.O.D. Botany, Post Office- Purnal, District- Muzaffarpur.
11. Amit Kumar son of Suryakeshwar Sahay, resident of Village+Post Office- Bikramganj, near sub-registry Office, Rohtas.
12. Garima Kumar son of Sri Yashwant Kumar Singh, resident of Village + Post Office- Samathi, Police Station- Bibhutipur, District- Samastipur.
13. Abhishek Kumar son of Ram Bahadur Singh, House No. 6B/01, Tilak Marg, North Krishnapuri, District- Patna 800013.
14. Priya Choudhary daughter of Dr. Manikant Chaudhary, C/46, Birla Colony, Phulwari Sharif, District- Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Satya Narayan Mishra, Adv.

For the Respondent/s : Mr. Sumant Kumar Singh, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-02-2018

Heard Mr. Satya Narayan Mishra, learned counsel
appearing for the petitioner and the learned counsel for the State.

The petitioner is aggrieved by his non-selection to the post
of Agriculture Coordinator following a selection process initiated in
the year 2013.



Having heard learned counsel for the parties, the only dispute which emanates is whether the 10 marks granted to the petitioner on experience as reflected from the merit list, a copy of which is placed at Annexure 5, but was deducted from the final evaluation which has placed the petitioner below last selected candidate under general category has prejudiced his case.

According to the counter affidavit of the respondents, the last selected candidate under general category secured 58.18 marks and the petitioner fell much below that because the 10 marks which was sought to be claimed on experience by the petitioner, in fact, he was not entitled to the same. The reasons assigned for this deduction of marks on experience is because the petitioner did not have work experience with the Government rather was allowed training on request made by his employer, a private organization.

While Mr. Satya Narayan Mishra, learned counsel for the petitioner, relies upon a certificate issued by the District Horticulture Officer, Patna, placed at Annexure 2, to submit that the experience certificate has been issued by a Government servant and thus, was valid for the purpose of award of marks, it is the contention of the learned State Counsel in reference to the provision present in the advertisement which required the candidate to have a work experience with the Agriculture Department and since the certificate given to the



petitioner at Annexure 2 is not by virtue of his appointment in the Agriculture Department, rather on his placement by an agency, namely, Shristi Foundation as manifest from the letter dated 26.6.2007 at Annexure 8 whereby the request of Foundation was accepted for the purpose of gaining experience in the field, that the marks had been deducted.

Having heard the parties four aspects of the matter does not persuade this Court to grant indulgence to the relief prayed:

- (a) The engagement was for a period of 11 months as reflecting from the advertisement, which has expired long before.
- (b) The advertisement is dated 15.8.2013, the merit list at Annexure 5 is dated 10.9.2013 and the list of appointees is dated 17.9.2013 at Annexure 3.
- (c) The petitioner has waited for almost three years to raise stale issues.
- (d) It is too late in the day to record opinion on whether or not the experience gained by the petitioner under the District Horticulture Officer at Annexure 2 had a validity.

That the list of appointees has attained finality in 2013, the



petitioner himself is responsible for being in such position. Besides, considering that the appointment was purely contractual for a period of 11 months, even if extension has been granted to those appointed, it cannot give a cause of action to the petitioner to raise an issue which should have been raised at the very threshold.

In the delayed circumstances noted, I am not persuaded to grant indulgence at this stage.

The writ petition is disposed of.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.02.2018
Transmission Date	NA

