

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1468 of 2018

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Surya Narayan Yadav, Son of Harihar Yadav, resident of Village + Post- Dhabahi,
Via Nanahiya, P.S. Laukahi, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Bihar, Patna.
2. The Chairman, Bihar Public Service Commission, Jawaharlal Nehru Marg,
Bailey Road, Patna.
3. The Secretary, Bihar Public Service Commission, Jawaharlal Nehru Marg,
Bailey Road, Patna.
4. The Examination Controller, Bihar Public Service Commission, Jawaharlal
Nehru Marg, Bailey Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Alka Verma Mr. Sanjay Kumar Mr. Navnit
For the Respondent/s	:	Mr. Md. N.H. Khan-SC 1 Mrs. Babita Kumari, AC to SC-1
For the BPSC	:	Mr. Sanjay Pandey

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 26-04-2018

The petitioner seeks to invoke the writ jurisdiction of this Court for issuance of directions to the respondent authorities for declaring the result of 60th and 62nd Common Combined (Pre) Competitive examination, in which the petitioner had applied.

2. The ground on which the petitioner seeks issuance of direction to the respondent authorities is that by mistake the petitioner had entered “No” instead of “Yes” in column 03(ii) of the application whereby he had to declare about his employment and about him having worked continuously for three years in Bihar Government



service and in case the same had been ticked as “yes”, the petitioner would have got relaxation in age. At this juncture, the learned counsel for the petitioner seeks to point out that the petitioner had filed an application for amendment of the writ petition and now, the petitioner seeks to challenge clause 13(III) of the advertisement of 60th and 62nd common combined (pre) competitive Exam of B.P.S.C., Patna dated 15.9.2016 on the ground that the same is arbitrary and directory in nature. It may be pointed out that the said clause 13(III) of the advertisement merely states that the Commission shall not be responsible for any mistake made by a candidate while filling the on-line form and there shall be no consideration of any application made by the candidate for correction.

3. I find that the issue involved in the present writ petition is no longer res-integra inasmuch as this Court by a judgment dated 11.1.2018 passed in CWJC No. 14789 of 2017 has already decided the said issue which is apparent from the said judgment dated 11.01.2018, relevant portion whereof is being quoted herein below:

“Though the petitioner claims age relaxation by virtue of his status as a Government employee but the default is of the petitioner himself and the reason for such denial is because he mentioned his status to such query in the native. The relaxation thus available to Government servant was no more available to him and due to which he exceeds the



prescribed age limit for participation even after being granted relaxation on caste status.

The argument made on behalf of the petitioner by Mr. Sanjay Kumar is that no sooner the error was detected that he approached the 'Commission' and in view of the discretionary power vested in the 'Commission' at paragraph 12 of the advertisement at Annexure 2 and since the error was bona fide, it should have been condoned.

Mr. Lalit Kishore, learned senior counsel appearing for the 'Commission' opposing the plea has referred to paragraph 13(iii) of the advertisement to submit that the warning was clear and each candidate was required to fill up the form with due caution and open eyes because they were not to be permitted to correct any wrong entries made thereon. He submits that the case of the petitioner is not a case in isolation but there would be large number of cases and thus on principle, the 'Commission' has decided not to grant permission to any of the applicants making such incorrect statements.

The petitioner is not in a position to demonstrate whether any of the applicant(s) committing any such similar error in the application form, has been granted permission by the 'Commission' to rectify the mistake in the application form.



In the circumstances discussed and considering that the power vested in the 'commission' to consider any such prayer, is discretionary, once a discretion has been exercised by the 'commission' which does not suit the petitioner, no mandamus can be issued for reversal thereof until such time that the petitioner would be able to demonstrate that the decision was arbitrary and in the teeth of Article 14 of the Constitution of India which is not the case in hand".

4. As far as the challenge to the aforesaid advertisement is concerned, the said issue has now become academic inasmuch as the result of the aforesaid examination has already been published and the petitioner has not been selected on account of his application being rejected on the ground of him being over-age apart from the fact that the challenge to the advertisement is belated and an afterthought.

5. I further find that the said Clause 13(III) of the advertisement is just and reasonable, the same being not arbitrary, inasmuch as firstly the said clause is not specific to the petitioner herein but common to all the applicants and secondly there should be a finality attached to a given process and the same cannot be unnecessarily prolonged or dragged on one pretext or the other.

6. However, at this juncture, the learned counsel for the BPSC submits that no discrimination has been meted out to the



petitioner inasmuch as no such person who had wrongly filled the application form has been permitted to correct the same. Another aspect of the matter is that in case the petitioner was aggrieved regarding clause 13(III) of the advertisement, he should have at the outset i.e. in the main writ petition itself, assailed the same but having not done so, the petitioner's subsequent challenge to the same is a futile attempt in despair to short circuit the ongoing recruitment process.

7. For the reasons mentioned herein-above, as also the issue involved in the present case having already been set at rest by a co-ordinate Bench of this Court, I do not find any merit in the present writ partition. Hence, the present writ petition is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	11.05.2018
Transmission Date	

