

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1112 of 2014

IN

Civil Writ Jurisdiction Case No. 23306 of 2013

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Mukesh Kumar Bhaskar S/o Maheshwar Chaudhary, R/o- Professor Colony,
Naugachia, P.O.+P.S.- Naugachia, Dist.- Bhagalpur

.... Petitioner / Appellant

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Bihar Staff Selection Commission, through its Secretary, Veterinary College, Patna- 800014
3. The Chairman, Bihar Staff Selection Commission, Veterinary College, Patna- 800014
4. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna

.... Respondents

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Appearance:

For the Appellant/s : Mr. Rajesh Kumar, Advocate.

For the Respondent-State: Mr. Rohitabh Das, AC to AAG 10.

For the B.S.S.C.: Mr. Lalit Kishore, Sr. Advocate and
Mr. Ashok Kumar Dubey, Advocate.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 06-04-2018

Challenging the order dated 21.02.2014 passed in
C.W.J.C. No. 23306 of 2013 the petitioner has preferred this intra-
court appeal.



2. The petitioner moved under Article 226 of the Constitution of India for a direction to the Bihar Staff Selection Commission (hereinafter referred to as 'the Commission') to recommend the name of the petitioner for appointment to an appropriate post, i.e. Child Protection Officer, which is Code No. 12, against Advertisement No. 110/10 as contained in Annexure-1 to the Writ Application. He has also prayed for declaring the result published by the Commission being illegal and in complete disregard to Clause 8 of Advertisement No. 110/10 and Clause 7 of the Bihar Staff Selection Commission Rule, 2010 (hereinafter referred to as 'the Rule, 2010').

3. It is the case of the petitioner that he had taken the Graduate Level Examination pursuant to the advertisement published in the daily newspaper 'Hindustan' on 18.06.2010 which showed total vacancy of 1569 in eight departments of the Government of Bihar. The said advertisement clarified that the vacancy may increase or decrease prior to main examination which shall also be filled up against the said advertisement. It is stated that in compliance of the order dated 24.08.2010 passed in CWJC No. 12022/2010 the Commission had issued amended letter on 06.05.2011 in daily newspaper 'Hindustan' calling upon the eligible candidates to apply against Advertisement No. 110/10 by 31.01.2011 and, to that effect,



the amended letter dated 06.05.2011 of Advertisement No. 110/10 was placed on the Website of the Commission.

4. The petitioner submits that he had appeared in the Graduate Level Preliminary Test Examination and he was found successful. Over the period of time, the notified vacancy of 1569 was increased to 3285 vide Memo No. 4241 dated 29.12.2012 and those who had passed the Preliminary Test Examination were called upon to fill up their forms by 17.01.2013. The petitioner claims that he filled up his form on 26.05.2012 for appearing in the Main Examination as per the Notice issued by the Commission. The petitioner appeared in the Main Examination and he was declared successful. The name of the petitioner was shown in General Category at Sl. No. 1748 as he had secured 420 marks. The petitioner claims that he had secured 417 marks and his name was shown at Sl. No. 1544 in the revised result in the General Category but the persons who have lesser marks than the petitioner have been recommended to the post of Child Protection Officer being Code No. 12. He has thus submitted that it is a case of hostile discrimination.

5. The Commission has come out with a specific plea in their Counter Affidavit that the petitioner had not uploaded his service option in his online application, therefore, in the absence of any service option in the application, the Commission allotted the post



available in the Seat-Matrix (as per the roster provided by different departments). It is submitted that no manual intervention has been done in the process of Seat-Matrix. In this connection, an enquiry team has also reported that the petitioner had not given any service option. The option form enclosed by the petitioner as Annexure-15 to the Writ Application has been disputed saying that the same is false and denied. It is submitted that the allotment of posts and departments has been undertaken through a computer software and there is no scope for human interference and since the petitioner in his online application did not specify for service option, in that event, the seriatim of service option provided by the Commission shall be accepted for service allotment.

6. By filing a Supplementary Counter Affidavit, the Commission has responded to the order passed by this Court directing the petitioner to file original copy of Annexure-15 along with the receipt showing submission of the document in the Office of the Commission and the respondent to file an additional affidavit and the original copy of the documents and the enquiry report based on which the averments have been made by them in Paragraph 6 and 7 of the Counter Affidavit.

7. The Commission has brought on record by way of Annexures – A & B (series) the photo copies of the relevant part of



the result sheet and the summary of the enquiry report of two other applicants. It is submitted that the petitioner had not uploaded his service option in his online application though it is an admitted fact that the petitioner had submitted hard copy of the application at the counter of the Commission mentioning his service option which is different from the uploaded online application. It is submitted that from the result sheet it is evident that the applicants, who have not uploaded their option of service, the columns of service option of such applicants are vacant in which the petitioner is one of them.

8. Having considered the rival submissions made at the bar, we find that in the nature of dispute involved in the present Writ Application where the respondent Staff Selection Commission has come out with affidavit that the hard copy enclosed by the petitioner is a false document and not a correct one and where the Commission has further stated that in the online application the petitioner had not given his service option and the allotment of service departments has been made in accordance with the Seat-Matrix and with the help of computer software which are not denied by the petitioner and no mala fide is pleaded against the Commission, we do not find it a fit case to exercise our discretionary jurisdiction under Article 226 of the Constitution of India.

9. There is no illegality or infirmity in the impugned



judgment. The Letters Patent Appeal is devoid of merit. It is accordingly dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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