

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.589 of 2018

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Shreenidhi Kumar Son of Shatrudaman Kumar, Resident of Village +P.O.-
Parsaunikapoor, P.S.-Patahi, District-East Champaran, Presently residing-Ward
No.30 Infront of Bachpan Play School, Mohalla- Parsauni Sada, P.S.-Motihari, East
Champaran, Motihari

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of griculture,
Government of BIhar, Patna.
2. The Principal Secretary, Department of Agriculture, Government of BIhar,
Patna
3. The Director, Department of Agriculture, Department Government of Bihar,
Patna.
4. The Chairman, Bihar Staff Selection Commission, Patna.
5. The Secretary, Bihar Staff Selection Commission, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Adv.
Mr. Prince Kumar Mishra, Adv.
For the Respondent/s : Mr. A.N. SINHA- GP21
For the B.S.C. : Mr. Ashok Kumar Dubey, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

C.A.V JUDGMENT

Date: 31-07-2018

The petitioner by way of the present writ petition has prayed for quashing the combined merit list (revised) as contained in Memo No. 40321 dated 29.12.2017 issued by the Secretary, Bihar Staff Selection Commission, Patna as well as for quashing of the order dated 4.8.2017 whereby and whereunder the claim of the petitioner for grant of 30 marks for work experience of more than 3 years has been rejected stating that the petitioner has only completed 2 years, 10 months and 29 days. It is further prayed to direct the respondents to publish a fresh revised merit list after rectifying the mistake in calculation of the work experience and to include the name of the petitioner in the final revised merit list.



2. The short facts of the case are that the petitioner is a graduate in agriculture and is working as agriculture Coordinator in the Chiraiya Block, East Champaran on contract basis. The Government of Bihar framed recruitment and Service condition for appointment to the post of Agriculture Coordinator in the Department of Agriculture, Bihar, Patna and issued the Agriculture Coordinator cadre (Recruitment and Service Conditions) Rule, 2014 (herein after referred to as “the Rules, 2014”). Thereafter, the Bihar Staff Selection Commission issued an advertisement dated 29.4.2015 for appointment to the post of Agriculture Coordinator in the department of Agriculture, Bihar and last date for filing the online application was 4.6.2015. The petitioner had applied for appointment on the post of Agriculture Coordinator. Subsequently, the last date for filing online application as well as for counting of the work experience was extended to 14.6.2015. The petitioner was called for counseling on 16.3.2016, whereupon the petitioner had appeared for counseling on 16.3.2016 along with all the requisite original documents. In the meantime, the Commission in its meeting dated 27.7.2016 had decided to count the work experience of a candidate up to 14.6.2015. The Bihar Staff Selection Commission, Patna, vide memo dated 5.8.2016 had published a merit list in which the name of the petitioner had also figured. As directed, the petitioner had appeared on 27.9.2016 for verification of the document. The Commission, vide letter dated 6.12.2016, had recommended the name of the successful candidates and vide letter dated 24.1.2017 had published the district wise merit list of the candidates as recommended by the Commission. Subsequently, the Commission vide Memo dated 22.5.2017 had published the rectified list. The petitioner had then filed online objection, asserting that he is entitled for being granted 30 marks



under the heading “works experience” and not 20 marks inasmuch as he has completed more than 3 years of service. The petitioner has also pointed out that although the experience certificate/ letters had been issued on 7.5.2015, but the last date for counting the experience has been extended up to 14.6.2016. However, the online objection of the petitioner was rejected by the impugned order dated 4.8.2017 thereafter, the Commission had published the revised combined merit list dated 29.12.2017 but the name of the petitioner does not figure in the same.

3. The learned counsel for the petitioner has submitted that the advertisement issued by the Commission, under Clause-7 provides that the work experience of a candidate shall be counted up to the last date for receiving of the application i.e. 4.6.2015, which was extended up to 14.6.2015 in the meeting of the Commission held on 27.7.2016. The learned counsel for the petitioner had submitted that the petitioner has submitted a certificate dated 7.5.2015 issued by the District Agriculture Officer, East Champaran, Motihari which certifies that the petitioner had worked as specialist District Agriculture Officer, Banka from 9.11.2011 to 15.5.2013 and is working as District Agricultural Officer, Motihari from 11.12.2013. Thus, the petitioner has worked for a period of one year, 6 months and 7 days on the post of specialist District Agriculture Officer, Banka and for a period of one year, 6 months and 5 days on the post of District Agriculture Officer, Motihari, taking into account the working of the petitioner up to 14.6.2015, which is the cut off date in the present case, hence the total work experience of the petitioner works out to 3 years and 12 days, thus the petitioner ought to have been granted 30 marks as per Clause-7 of the advertisement, but the Commission has wrongly calculated the work experience of the



petitioner as two years 11 months and 2 days and he has wrongly been given 20 marks.

4. Per contra, the learned counsel for the Commission has submitted that the petitioner has admittedly submitted the aforesaid certificate dated 7.5.2015 wherein it has been certified that the petitioner has worked on the post of specialist District Agriculture Officer, Banka from 9.11.2011 to 15.5.2013 i.e. for a period of one year, 6 months and 7 days and it has been further certified that the petitioner is working on the post of District Agriculture Officer, Motihari from 11.12.2013 and since the certificate is dated 7.5.2015, the work experience on the said post of District Agriculture Officer has been worked out to a period of one year, 4 months and 26 days, hence the total work experience of the petitioner has been counted to 2 years, 11 months and 2 days, thus the petitioner has been awarded 20 marks correctly.

5. I have heard the learned counsel for the parties and perused the materials on records and I find that since the petitioner has submitted a certificate dated 7.5.2015, the experience of the petitioner shall be counted only for the period up to 7.5.2015 and not beyond the same, since the Commission could not have assumed that the petitioner was also working after 7.5.2015 and up to 14.6.2015 i.e. the extended last date of the submission of the application form. In the event, the Commission starts working on the basis of presumption and assumption, firstly it would be contrary to the Rules and Regulations and the conditions stipulated in the advertisement and secondly there would be no end to its woes. The Commission has to scrutinize and process hundreds of applications and it is neither feasible nor legal for the Commission to work on assumptions, which in the present case, is the argument of the petitioner.



6. The rules and the provisions of the advertisement are uniform for all and it is neither permissible nor legal to adjust each and every candidate according to the wish and dictate of such candidate till the last moment by considering extraneous materials and hypothetical assumptions. In the present case, since the certificate produced by the petitioner regarding his work experience is dated 7.5.2015, the Commission in no case could have counted the experience of the petitioner beyond the said date of 7.5.2015. Nothing had prevented the petitioner from submitting a certificate of a subsequent date immediately prior to the extended last date of application i.e. 14.6.2015. In fact, the petitioner, while filing his objection on 6.6.2017 had again relied on the work experience certificate dated 7.5.2015 and was unable to produce any certificate of subsequent date showing to have completed requisite work experience of three years, hence the Commission had rightly granted 20 marks to the petitioner under the heading “work experience” as per clause 7 of the advertisement.

7. For the reasons mentioned herein above, as also the discussion made in the preceding paragraphs, I do not find any reason to interfere with the order of the Commission dated 4.8.2017 or its subsequent action.

8. Having regard to the facts and circumstances of the case, the present writ petition being devoid of any merit, is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	04.05.2018
Uploading Date	01.08.2018
Transmission Date	

