

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5749 of 2016

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Md. Yahya, Son of Md. Wasi Ahmad, Resident of Village- Rupaspur, P.S.-
Alinagar, District- Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Police), Government of Bihar, Patna.
2. The Additional Director General of Police, Criminal Investigation Department (C.I.D.), Government of Bihar, Patna.
3. Director, Forensic Science Laboratory, Police Barrock, Near Lalit Bhawan, Bailey Road, Patna.
4. Staff Selection Commission, Bihar through its Chairman, Veterinary College, Patna.
5. Secretary, Staff Selection Commission, Veterinary College, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Wasi Ahmad Khan, Adv.

For the Respondent/s : Mr. Rakesh Kumar Shrivastava, AC to GP-15

For the Commission : Mr. S.S.Sundaram, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-04-2018

Heard Mr. Wasi Ahmad Khan, learned counsel appearing
for the petitioner, Mr. Rakesh Kumar Shrivastava, learned AC to GP-
15 for the State and Mr. S.S.Sundaram, learned counsel for the Staff
Selection Commission.

The petitioner prays for issuance of a writ in the nature of
mandamus to command the respondents to appoint him against the
post of Senior Scientific Assistant, Forensic Science Laboratory,
Govt. of Bihar, Patna after allowing him marks on experience for his
period of service as a Laboratory Bearer with the Forensic Science
Laboratory, Patna. Since the Staff Selection Commission has not



given him these marks on experience, although this petitioner is serving the Forensic Science Laboratory at Patna since 2010 albeit on a contractual basis that he is before this Court.

Although the pleadings in this proceeding have gone bulkier by filing of affidavits by all connected but to clinch the issue Mr. Khan has relied upon a proceeding of the meeting chaired by the Addl. Director General of Police held on 4.10.2017 to submit that the issue as to whether points can be given to a Laboratory Bearer for service rendered with the Forensic Science Laboratory, was put up before the Committee which was one of the several queries made by the Staff Selection Commission and the opinion of the Committee at Agenda No.7 of the proceeding would confirm that the petitioner is entitled to marks on experience. He thus submits that going by the opinion of the Committee the petitioner would be entitled to marks on experience but the Addl. Director General of Police, who chaired the Committee, has a change of mind as by filing a supplementary counter affidavit today he encloses a letter dated 18.4.2018 and in the process of clarification that he wrests away this right from the petitioner. In reference to Appendix 99, Vol.3 of the Bihar Police Manual he submits that going by the nomenclature of the post held by the petitioner he is entitled to marks on experience.

Mr. Shrivastava, learned counsel for the State, has also



relied upon Appendix 99 Vol. III of the Bihar Police Manual to submit that counsel for the petitioner has shown the Appendix only partially. He invites the attention of the Court to the said Appendix 99 in so far it stipulates for Non-Technical Post, the relevant extract of which has been enclosed in the supplementary counter affidavit of respondent no.2 at Annexure 'A' to submit that the post of Laboratory Bearer is a Class IV post and comes under the Non-Technical category. He submits that since the post of Senior Scientific Assistant falls in the category of Technical Staff, as manifest from Appendix 99 and the hierarchy begins from the stage of Laboratory Assistant. It is argued that the petitioner is holding the post of Laboratory Bearer which is a Class IV post under the Non-technical category and which is the position clarified by the Addl. Director General of Police in his letter dated 18.4.2018. In reference thereto he submits that the post of Laboratory Bearer coming under Non-technical category is a Class IV post and its chain of promotion is in the clerical cadre and not on the technical side. It is submitted that the Laboratory Bearer is entitled to marks on experience but when considered in his normal chain of promotion in the clerical cadre. He has also invited attention of this Court to the qualification mandated for the post of Senior Scientific Assistant which is a Post Graduation in Science qua the eligibility qualification for the post of a Laboratory Bearer which is Class 7th



Pass, to support the clarification issued by the Addl. Director General of Police.

Mr. Sundaram, learned counsel appearing for the Commission, submits that even if the Commission is bound by the opinion given by the department concerned, the position is clear from the resolution itself when it segregates the post of Laboratory Bearer, a Non-technical post, from other post coming under the Technical category. It is submitted that the award of marks on experience would be given to the Laboratory Bearer when considered in normal chain of promotion in terms of the Rules.

Having heard learned counsel for the parties, this Court is satisfied with the clarification so issued by the Addl. Director General of Police which is in tune with the stipulations present in Appendix 99, Vol.3 of the Bihar Police Manual and clearly distinguishes the post coming under Technical and Non-technical category. The post of Laboratory Bearer is a Class IV post in the Non-technical category with eligibility qualification of Class 7th Pass while the qualification for the post of Senior Scientific Assistant, a post in which the petitioner is an applicant, is Post-graduate in Science. Even though this petitioner satisfies the minimum educational qualification for the post but that would merely make him eligible for consideration but would not be enough for award of marks on experience. Thus, even if



the petitioner is qualified for appointment as Senior Scientific Assistant but in the nature of the post of Laboratory Bearer held by him as well as qualification desired under the Rules, he cannot claim marks on experience and which has been rightly not allowed to him by the Commission on the advice of the department.

For the discussions above, no cause for indulgence is made out to the prayer made. The writ petition is disposed of.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27.04.2018
Transmission Date	NA

