

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17309 of 2018

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Shashi Shankar Khan son of Late Ravindra Narayan Khan Permanent resident
of Village - Pari, P.S. - Bangaon, District - Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Cabinet Secretariat
Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of
Bihar, Patna.
3. The Chief General Manager, Bihar Vikas Mission, Rajvanshi Nagar, Patna.
4. The Member Secretary, Bihar Vikas Mission, Rajvanshi Nagar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kaushal Kumar Jha, Adv. Mr. Amish Kumar, Adv.
For the State	:	Mr. N. Hoda, SC1 Ms. Babita Kumari, AC to SC1
For the BVM	:	Mr. Piyush Lal, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 18-12-2018

Heard learned counsel for the parties.

In the present case, the petitioner is only seeking a relief
that he should be called for interview for getting a chance of
selection to the post of Department PMU Lead which was
advertised vide Advertisement no. BVM/Rec (02)-04/17-741 dated
26.9.2017 by the Bihar Vikas Mission.

The petitioner had applied for the post of Department
PMU Lead bearing application no. 17105122. It was not a direct
appointment of the Bihar Vikas Mission but, the Bihar Vikas
Mission was to take work through an agency which had to select
the best person amongst the selected candidates who fulfill the



requirement fixed by the Bihar Vikas Mission. So it is hiring the services of the petitioner through an agency. One of the requirement for calling for interview is that the candidates must have an experience of ten years which the petitioner claims to have satisfied as his work experience reflects his engagement in various establishments, giving details in his application of work experience. The petitioner has submitted experience certificate issued by the SGS India Pvt. Ltd. stipulates work experience from 25.12.2014 to 18.11.2017, Alankit Assignments Limited issued certificate for the period from 28.4.2014 to 13.12.2014, the certificate issued by the Prognosys e Services is for the period from 4.7.2008 to 25.12.2013 and Kotak Mahindra Life Insurance issued experience certificate for the period from 14.2.2007 to 7.6.2008. In total, it comes to 10 years and one month. On that basis, the petitioner is claiming to be entitled for 35 marks but, has wrongly been granted 30 points on the score that with respect to certificate issued by the SGC shows that he has worked from 15.12.2014 to 14.3.2014 and from 15.3.2014 to 14.12.2015. So, the agency has pointed out that there is overlapping period which is not compatible to the situation and it is clear from the remark/observation which has been attached as Annexure-P5 of



the writ application. The observation mentioned in the column is as follows:-

“As per the contract letter issued by SGS, issued on 04th March 2015 duration of experience has been mentioned as 15th March 2014 to 14th December 2015 and which overlaps with Reliving Date of Alankit i.e. 13th Dec 2014. As there had been overlapping is experience with Alankit. Hence this experience has not been considered as valid and candidate has shared another document issued on 04th March 2015 in which contract period is 15 Mar 2015 to 14 Dec 2015. Hence experience with SGS has been considered valid from 15 Mar 2015 till date of application and same has been considered for marking calculation. 5 marks has been reduced based on post qualification experience. Supporting document to establish duration of experience with SGS and Alankit has been uploaded on FTP.”

So, the petitioner was not called for interview due to reduction of 5 marks on account of error committed in issuance of the certificate. The SGS certificate mentions 15.12.2014 to 14.03.2014 and from 15.03.2014 to 14.12.2015 which is overlapping is reflected on the face of it and the remark column also shows that in place of 14.03.2014, it should be 15.3.2015. That has been mentioned in the observation itself which itself shows that the petitioner has given a correct experience certificate but, there is defect in date.



Learned counsel for the Bihar Vikas Mission has objected the claim of the petitioner on the ground that despite giving chance, the correction in the certificate has been made after the cut-off date and, as such, he has failed to make out a case for seeking relief in his favour, when every process of selection is over, the panel having been prepared, in such circumstances, it will not be desirable for this Court to direct the authority to call the petitioner for interview.

Learned counsel for the petitioner submits that it is not that he has not submitted the correct certificate rather it is mere a typing error and, that too, he has not committed the same rather has been committed by the employer which has been mentioned in the remark column has been rectified later on and, for that, refusal to call for an interview creates serious prejudice to his career. He has further submitted that there is no allegation that in any manner he has either misrepresented or has committed any fraud but, it was simply a clerical error occurred in the certificate which the authority is knowing well and that has been corrected, so he cannot be deprived of the relief for calling for an interview, has placed reliance on the order passed by this Court in the case of Sadanand Kumar Vs. The Chairman-cum-Managing Director & Ors. (C.W.J.C. No. 4189 of 2013) affirmed by the Division Bench in



L.P.A. No. 938 of 2016. In that case also, there was a clerical mistake in filling up the form and the Court has taken care that in a hard days, when the employment has become a rare commodities and, mere on too technical grounds, depriving a person will be a travesty of justice to the candidate who has all qualifications and experience.

Learned counsel for the petitioner submits that so far the information with respect to clerical mistake, has claimed that he was never communicated and only he could know when this remarks/observation was uploaded in the website and, after that, he has made a request for rectification in the certificate which he received on 20.8.2018 and, on receipt of the same, he has furnished the same. So the question would arise as to whether the petitioner has made out a case for calling for interview or not.

It appears that the petitioner could not be called for interview on account of some defects in the certificate granted by the SGS and there was no laches on the part of the present petitioner and, that too, has been rectified, that was a mistake of sheer typographical error, in place of 15.3.2015, it has been wrongly typed as 15.3.2014 which is completely incompatible to the earlier date and which has been recorded in the remark column itself.



In that view of the matter, refusing to allow the claim of the petitioner to be called for interview will lead to travesty of justice. In such circumstances, the present writ application is allowed and the respondents authorities are directed to hold the interview of the petitioner within a period of four weeks from the date of receipt/production of a copy of this order but, that does not mean that this Court is, in any way, giving any opinion on the merit of the petitioner and his selection will be dependent upon his performance and other attending circumstances.

In the result, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.01.2019
Transmission Date	

