

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10422 of 2016

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Pankaj Priya Chaubey Son of Sri D.D. Chaubey Resident of B-7,
Sadhanapuri, Road No. 6 - D, Gardanibagh, P.S. Gardanibagh, Town - Patna
800001, District Patna Bihar

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Health & Family Welfare, Government of Bihar, Patna.
2. The Secretary, Deptt. of Health and Family Welfare, Govt. of Bihar, Patna
3. Bihar State AIDS Control Society (BSACS) Patna through its Project Director, State Institute of Health & Family Welfare Building (SIHFW) Building, Sheikhpura, Patna-14.
4. The Project Director, Bihar State AIDS Control Society BSACS , SIHFW Building, Sheikhpura, Patna
5. The Additional Project Director, BSACS, SIHFW Building, Sheikhpura, Patna 14
6. The In - Charge Establishment, BSACS, SIHFW Building Sheikhpura, Patna 14

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vishwajeet Kumar Mishra, Advocate
For the State	:	Smt. Kumari Amrita- GP10
For respondent Nos. 3 to 6 :		Mr. K.K. Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 14-08-2019

Heard learned counsel for the petitioner and learned
counsel for the respondents.

In this case, the petitioner is challenging the action of
the Management whereby and whereunder the service of the
petitioner has been terminated vide order dated 26.05.2016 on two
counts; first that the service was not found to be satisfactory as
none of the allegation alleged in the show cause could be refuted



by the petitioner and second that the petitioner is not possessing the requisite academic qualification required for the post of JD (TI).

Counsel for the petitioner submits that both the grounds are not sustainable as the petitioner has applied against the advertisement published in the newspaper and requisite qualification has been provided as Post Graduate in Social Science /Sociology/ Anthropology/ Psychology/ Social work/ Public with 10 years of experience in training and research in the field of Health/HIV/AIDS/Poverty alleviation/gender sector. As the petitioner has a qualification of PG degree in Rural Management which he has acquired from the Institute of Rural Management Anand (IRMA), on query made by the the Additional Project Director vide letter dated 16.09.2015 regarding Post Graduate Diploma in Rural Management of IRMA, vide letter dated 17.09.2019 the IRMA has explained the curriculum and course and the stream for imparting education, which has been meticulously mentioned therein and one of the subject for study is Sociology which is mentioned in the advertisement and on that basis, counsel for the petitioner submits that the reason assigned in the letter of termination is not sustainable with regard to the requisite qualification inasmuch as the petitioner has been selected by three



Men Committee after examining the qualification which he was possessing, further submits, the second reason for showing non-satisfaction of the reply with regard to the unsatisfactory work, as per the petitioner is also not sustainable as he has performed the duty satisfactory, but in order to remove the petitioner, this ground has been mentioned in the termination letter, whereas, counsel for the Bihar State AIDS Control Society submits that there is no need to decide the case on its merit on the reason that the period of engagement has already expired on 31.03.2017 and, as such, this petition has been rendered infructuous.

Of course the period of contract is over in 2017, in such a situation, there is no need to adjudicate the issue of allegation of unsatisfactory work, but the question of qualification cannot be ignored to be decided. This Court is of the view that as per the letter issued by the Institute of Rural Management Anand (IRMA) shows the nature of curriculum and course and the stream for imparting education in the PG Diploma as well as the selection has been made on interview by the three Men Committee, which has found the qualification of the petitioner to be the requisite qualification. In such circumstance, it cannot be said the petitioner was not holding proper and requisite qualification.



In such view of the matter, this Court observes that in the future advertisement, the petitioner will be at liberty to apply for the said post and while considering the case of the petitioner the imputation mentioned in the letter dated 17.09.2015 about the unsatisfactory will not be taken into consideration as well as the qualification which has mentioned will not be a barrier for consideration of the case of the petitioner.

With this observations and directions, this writ application stands disposed of.

(Shivaji Pandey, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	17.08.2019
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