

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5652 of 2020

1. Moh.Qutbuddin Son of Md. Alauddin Resident of Village and P.O.- Gadha, P.S.- Ladania, District- Madhubani.
2. Monika Daughter of Rajiv Kumar Resident of Village- Safapur, P.O.- Safapur, P.S.- Noyagaon, District- Begusarai.
3. Wakil Ahmed Ansari Son of Shamshul Afrin Ansari Resident of C/o Manpasand Kirana Store, Kara Bazar, Village- Kara, P.S.- Obra, District- Aurangabad.
4. Manoj Kumar Das Son of Marachhu Ravidas Resident of Village- Dariyapur, P.O.- Shorampur, P.S.- Naubatpur, District- Patna.
5. Bashishth Muni Singh Son of Rishimuni Singh Resident of Village- Jamuaon, P.S.- Sandesh, District- Bhojpur.
6. Sweta Patel Daughter of Mithilesh Singh Resident of Village- Tal, P.O.- Sihari, P.S.- Haspura, District- Aurangabad.
7. Divesh Kumar Son of Ramashray Kumar Resident of Village and P.O.- Farda, P.S.- Jamalpur/ Naya Ramnagar, District- Munger.
8. Jitendra Kumar Son of Deokumar Ram Resident of Village- Bharigawan, P.S.- Kudra, District- Kaimur.
9. Anil Kumar Son of Rajendra Prasad Resident of Village and Post- Chadhua, P.S.- Kurhani, District- Muzaffarpur.
10. Md. Wasim Raza Son of Md. Jawed Akhtar Resident of Village- Ansar Nagar, Patna Medical Hall, P.O. and P.S.- Nawadah, District- Nawadah.

... .. Petitioner/s

Versus

1. The Bihar technical Service Commission Patna through its Chairman.
2. The Secretary Bihar Technical Service Commission, Patna.

... .. Respondent/s

Appearance :

For the Petitioner : Mr. Prashant Sinha, Advocate

For Respondent : Mr Nikesk Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 12-05-2020 In view of nationwide Lockdown on account of Covid-19 global pandemic the matter was mentioned seeking permission to file this writ petition and for its listing as an



urgent matter for consideration through video conference. Upon due consideration, the Hon'ble Chief Justice accepted the motion for urgent listing. The matter has accordingly been placed today for consideration through video conference.

Heard Mr. Prashant Sinha, learned Counsel for the petitioner as well as Mr. Nikesh Kumar, learned Counsel for the respondent Bihar Technical Service Commission (hereinafter referred to as 'the Commission'). Both have appeared and made submissions in these virtual court room proceedings from their respective homes through audio visual technology.

Brief facts of the case are that for appointment of Junior Engineers the respondent Commission brought out an advertisement on 8.3.2019. The advertisement No. 01/2019 invited applications from desirous candidates holding Diploma or equivalent in Engineering from a recognized and accredited institution.

On basis of marks obtained in the Diploma or equivalent examination 75 marks were to be awarded. 5 marks was to be awarded for each year of experience of work performed on contract basis under the State, subject to a maximum of 25 marks. Accordingly, selection was to be based on assessment of merit of the candidates, inter se, based on



marks awarded to the candidates out of total 100 marks.

The petitioners are candidates in the selection process and have submitted their application in response to the advertisement.

Nearly a year after submission of applications, the respondent Commission came out with an advertisement (Annexure 2 of the writ petition) allowing the candidates to make modification (correction) in their online application form. Petitioners, other than petitioner Nos. 3, 4, 6, 7 and 9, in the meantime continued to work on contractual basis and thus sought modification so as to enhance the experience gained in the meanwhile, to what they had claimed in the original application in response to advertisement no.1/2019.

So far as petitioner Nos. 3, 4, 6, 7 and 9 are concerned, they have claimed modification of certain parameters in the original application which as per petitioners' case falls in the category of correction of inadvertent errors, and not enhancement of experience claimed by the other petitioners.

The petitioners' grievance is that their modification applications were not accepted by the system. It is their case that in fact when they applied online for modification, even the experience which was originally claimed by the petitioners at



the time of submission of original applications, stood obliterated from the system. Consequently, as of today, no experience was being shown in the petitioners' online application.

Petitioners submitted online complaints in this regard to the respondent Commission seeking redressal of their grievances. A system generated e-mail was issued to the petitioners mechanically acknowledging receipt of the complaints. It is petitioners' claim that they have also approached authorities in the Commission personally but till date no action has been taken on their complaints.

Mr. Nikesh Kumar, learned Counsel for the respondent Commission submits that Clause 4(iii) of the original advertisement makes it abundantly clear that a specific cutoff date had been prescribed up to 28.02.2019. The same was a fixed parameter. No candidate could therefore be permitted to claim experience in respect of work on contractual basis subsequent to 28.02.2019. Thus, it was not open to the candidates to seek enhancement of the experience gained in between issuance of the original advertisement, and Annexure 2, nearly a year thereafter, allowing an opportunity for correction.

From bare perusal of Annexure 2 it is clear that Modification permitted under the same were of the nature of



corrections. That also was permitted only in the variable parameters and not permitted in the fixed parameters such as experience, which was fixed by the original advertisement, in respect of contractual work performed up to 28.02.2019. Corrections, claimed by the petitioners, only if found acceptable and in respect of variable parameters can be allowed.

Mr. Nikesh Kumar, learned Counsel appearing for the respondent Commission, submitted that only 13 applicants in the entire process of selection had been faced with such a difficulty and whose complain are pending with the Commission. The petitioners are 10 out of these 13 persons who have raised grievance/made complaints. Before publishing the result the Commission would be disposing of the complaints/grievances of the petitioners.

In view of the said submission, since the issue is yet to be examined by the respondent Commission, there is no occasion for this Court to issue any direction as the stand of the Counsel for the Commission is that the complaints would be disposed of before publication of the result.

The writ application is disposed of by recording that all the complaints filed by the petitioners would be disposed of in terms of the stand of the learned Counsel for the Commission



at least two weeks prior to publication of the result.

This court would only observe that the Commission would be under an obligation to maintain uniformity in the process of selection, including in the matter of allowing modifications (corrections) claimed by the candidates participating in the selection process, while taking a decision on the claim of the petitioners.

(Madhuresh Prasad, J)

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