

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2373 of 2020

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Rajiv Lochan Son of Sri Sita Ram Singh, Resident of Village- Mafo, P.S. Mehus, District- Sheikhpura, at Present Resident of Mohalla- Maharanipuram, Bypass Road, Near Electric Office, P.S. and District- Sheikhpura.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Government of Bihar, Patna.
2. The Director, Department of Agriculture, Government of Bihar, Patna.
3. The District Magistrate, Sheikhpura.
4. The District Agriculture Officer, Sheikhpura.
5. The Block Agriculture Officer, Sheikhpura.
6. The Secretary, the Bihar Staff Selection Commission, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar
For the Respondent/s : Mr.Sarvesh Kr. Singh (Aag13)
For Bihar Staff Selection Commission: Mr. Satyabir Bharti

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 26-02-2020

Heard learned Counsel for the petitioner and the learned Counsel for the respondent State.

The petitioner has emerged unsuccessful in the selection process for appointment as Agriculture Coordinator. The grievance of the petitioner is that he has been deprived of 30 marks for experience gained in between 14.03.2011 – 04.06.2015 in addition to the academic marks obtained by him (36). The petitioner has only been awarded 10 marks and, as such, he submits that he has wrongly been declared unsuccessful. The petitioner seeks quashing of one communication dated 18.8.2017 issued by the Secretary, Bihar Staff Selection Commission, Patna (hereinafter referred to as ‘the Commission’) rejecting the petitioner’s objection filed pursuant to orders passed by



this Court. The petitioner alleges that deprivation in marks is in contravention of the decision dated 15.6.2016 of the Secretary to the Government of Bihar in the Agriculture department bearing Memo No. 558.

Learned State Counsel, on the other hand, submits that in respect of the same cause of action the petitioner after being declared unsuccessful had approached this Court in CWJC No. 14310 of 2016. During the said proceeding the Court was faced with some ambiguity with regard to the nature of experience requisite for award of marks.

The Staff Selection Commission in their counter affidavit filed in those proceedings disclosed that a high powered committee headed by the Civil Surgeon, Agriculture Production Commission, Principal Secretary, General Administration as well as Chairman of the Bihar Karmchari Chayan Ayog, deliberated on the issue. The high powered committee in its decision contained in minutes dated 21.6.2016 was of the view that every kind of experience earned shall not be made the basis for grant of advantage/marks. The experience, if any, only as Agriculture Coordinator was found to be worthy for grant of marks on account of experience. The said stand of the State was accepted by this Court and the writ petition, earlier filed by the petitioner seeking marks for experience of work other than Agriculture Coordinator was dismissed on 26.9.2016 passed in CWJC No. 14310 of 2016 (Annexure 10).

In the meantime, a meeting was also held in the respondent Commission on 27.7.2016. At this 448th meeting it was decided that marks on account of experience was to be granted only to Technical Managers, Block Technical Managers, Agriculture Coordinator on the basis of their work on contractual basis in the Agriculture Department in the Government of Bihar. The said decision has been applied uniformly to all applicants and it is not the petitioner's case that it is only his experience in respect of work in other capacity that has been excluded from consideration. It is not the petitioner's case that he has



been discriminated against. He is claiming marks for the experience in respect of work rendered in capacity other than what was uni formally decided by the Commission and which has been applied to the selection in question. The petitioner's challenge to the same in CWJC No. 14310 of 2016 was also rejected by this Court.

Pursuant to certain orders passed in another writ petition bearing CWJC No. 13658 of 2016, the said decision of the Commission in its meeting dated 22.7.2017 was taken whereafter the final result was also published applying those uniform criteria for award of marks on experience. The LPA No. 2084 of 2016 filed by the petitioner was therefore dismissed as infructuous.

The petitioner's Counsel submits that while dismissing his LPA the Division Bench in its order dated 17.9.2019, passed in LPA No. 2084 of 2016, had granted liberty to the petitioner to challenge the decision of the Commission dated 22.7.2017 or the result "at the appropriate forum in accordance with law".

It is under the liberty granted by the order of the Division bench that again the petitioner has approached this Court seeking marks on account of services rendered on posts other than the post of Assistant Technical manager, Block Technical Manager or Agriculture Coordinator on contract basis in the Government of Bihar.

The claim of the petitioner, therefore, based on the averments made in the writ petition is wholly unsustainable. Firstly the decision of the Commission dated 22.7.2017 has been arrived at by applying the minutes dated 27.7.2016 of the Commission uniformly. Decision contained in minutes dated 27.07.2016 has never been challenged by te petitioner. All participants in the process of selection have been awarded marks for experience based on that decision and final result has since been published. The petitioner cannot as a matter of exception claim that his candidature should be considered by awarding marks for experience otherwise.



This Court would observe that even before such claim of the petitioner can be examined the petitioner would have to overcome the effect of the order and judgment dated 26.9.2016 passed in CWJC No. 14310 of 2016, earlier filed by the petitioner. The same relief was rejected in those proceedings. The LPA against the same was also dismissed by the Division bench in LPA No. 2084 of 2016 on 17.9.2019. The liberty therefore granted by the Division Bench to re-agitate the matter "... at the appropriate forum.." cannot be relied upon by this Court sitting singly to reopen the issue concluded by the earlier decision of the Hon'ble Single Judge of this Court in CWJC No. 14310 of 2016 as well as Division Bench in LPS No. 2084 of 2016.

In the opinion of this Court, "at the appropriate forum..." in order of the Division Bench, in this background does not, and cannot be relied upon by the petitioner to re-agitate the matter in these proceedings, since the Division Bench, in clear and unambiguous terms has dismissed the LPA as infructuous.

The claim of the writ petitioner does not merit any consideration.

The writ petition is dismissed.

(Madhuresh Prasad, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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