

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21296 of 2019

Dr. Shipra Sharma, D/o Dr. Amarnath Sharma, R/o- Flat no. 10, Marigold Tower, B-2, Sector- A, Mahanagar, Lucknow, U.P. ... Petitioner

Versus

1. The Bihar Public Service Commission through its Secretary, 15 Jawahar Lal Nehru Marg (Bailey Road) Patna.
2. The Chairman, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg (Bailey Road) Patna.
3. The Joint Secretary- cum- Examination Controller, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg (Bailey Road) Patna.

... Respondents

Appearance :

For the Petitioner	:	Mr. Prabhu Narayan Sharma, Adv.
For the State	:	Mr. Lalit Kishore, AG with Mr. Sanjay Pandey, AC to AG
For the BPSC	:	Mr. Satyabir Bharti, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

7 15-12-2021 Heard Mr. Prabhu Narayan Sharma, learned Advocate for the petitioner and Mr. Lalit Kishore, Senior Advocate, assisted by Mr. Satyabir Bharti for the Bihar Public Service Commission.

The grievance of the petitioner is that she has not been marked properly by the BPSC and therefore she has not been selected as Assistant Professor in the subject of Hindi.

The petitioner had applied for appointment on the post of Assistant Professor in Hindi subject against Advertisement No. 44 to 84 of 2014. She has been marked 9.80 for her grade in Matric, 6.20 for Inter; 20 for graduation; 23.25 for M.A. and 5 marks for Ph. D without UGC Regulation 2009, making a



total of 64.25 marks. With the addition of the marks of interview in which the petitioner has scored 7 marks, her total aggregate was 71.25.

The last of the person selected for the post in the unreserved category had secured 76.60.

Learned counsel for the petitioner has submitted that for Inter, the petitioner should have been marked more. It has been demonstrated that the petitioner had secured 640 marks out of 1100 securing first division. For rationalization, the subject in which the petitioner had obtained highest marks has been deleted. Had that not been done, the petitioner would have received higher marks for her grade in Inter. Similarly it has been argued that the Vishva Bharti, Shanti Niketan University has testified to the fact that the petitioner had passed Ph. D. with UGC regulation of 9 of 11 points. He further submits that there was no reason for the BPSC to have disputed the aforesaid communication from the University and not treating the petitioner as Ph.D with UGC with 2009 Regulation. The petitioner therefore asserts that for the Ph.D degree that the petitioner holds, she ought to have been awarded ten (10) marks.

With the award of marks in Inter and Ph.D in a proper way, it has been argued, the petitioner would have found her



way in the merit list for her appointment as Assistant Professor in Hindi subject.

Learned counsel for the BPSC however has submitted that the petitioner has, in the Intermediate examination, obtained 142 marks in the elective subject which was the sixth subject. Thus for rationalization of marks awarded in five subjects out of total of 1000, the marks obtained by the petitioner in the elective/sixth subject has been reduced. He further submits that the BPSC was not looking for reduction of maximum marks obtained by the petitioner but was only concerned with marks in any appropriate subject to be reduced for the purposes of rationalization. There could be no other logical/rational method of rationalization except for reducing the marks in the elective subjects and not of compulsory subjects.

The learned counsel however has no specific reply to the issue raised by the petitioner that she should have been marked ten (10) for her Ph.D. with UGC Regulation 2009.

There is nothing on record which can justify the BPSC to discard the communication made by the Vishva Bharti, Shanti Niketan University, a Central University that the petitioner has been awarded Ph.D degree under UGC regulation 9 with eleven (11) points. However, he submits that assuming



hypothetically that the petitioner was marked ten (10) for her Ph.D degree, she would have obtained maximum of 76.25 marks. In that case also, she would have fallen below the threshold of 76.60, which is the marks obtained by last of the candidates in the unreserved category. The learned counsel for the Bihar Public Service Commission therefore submits that in such a fact scenario, the concluded process of appointment ought not to be stoked any further.

Learned counsel for the petitioner however contends that the highest marks obtained by the petitioner in one particular subject ought not to have been discarded for rationalization. The rule of prudence and the best interest of a candidate would have been served better if the minimum marks awarded to the petitioner in any one of the subjects would have been reduced.

There may be logic in the aforesaid argument but considering the fact that the elective subject and not any one of the compulsory subjects was discarded rationalizing the marks of the petitioner in Intermediate examination, this Court does not find any fault with the method adopted by the BPSC in awarding and computing the total marks.

For the reasons aforestated, especially the conclusion



of the appointment process and the last of the candidates in the category of unreserved persons having obtained more marks than the petitioner, had she been awarded ten marks for her Ph.D, this Court would not like to entertain this petition any further.

For the aforesaid reasons the writ petition is dismissed but without costs.

(Ashutosh Kumar, J)

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