

IN THE HIGH COURT OF JUDICATURE AT PATNA

C.W.J.C. No. 23258 of 2019

Jainendra Kumar, son of Ganesh pd. Yadav, r/o KaruKhirhari Nagar,
Ward no. 35, Kahra, PS-Saharsa, Dist-Saharsa (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Higher Education, New Secretariat, Patna
2. Bihar Public Service Commission, 15 JawaharLal Nehru Marg (Bailey road), Patna-800001, through its Chairman
3. The Chairman, Bihar Public Service Commission, 15 JawaharLal Nehru Marg (Bailey road), Patna-800001
4. The Secretary, Bihar Public Service Commission, 15 JawaharLal Nehru Marg (Bailey road), Patna-800001

..... Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arvind Kr. Singh, Advocate
For BPSC	:	Mr. Neeraj Kumar, Adv.
For State	:	Mr. Mrigendra Kumar (AC to GP 20)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

C.A.V. JUDGMENT

Date : 04-09-2021

1. The present writ petition has been filed for directing the respondent- Bihar Public Service Commission (hereinafter to be referred to as the "B.P.S.C.") to grant 04 more marks to the petitioner in the selection process being undertaken for making appointment on the post of Assistant Professor, pursuant to the Advertisement no. 50 of 2014, in view of the fact that the petitioner possesses M. Phil degree as per the U.G.C. Regulations 2009 with NET.



2. The brief facts of the case are that the respondent-B.P.S.C. published an advertisement bearing Advertisement no. 50 of 2014 for filling up vacancies on the post of Assistant Professor in different subjects, in pursuance whereof, the petitioner had also applied for the post of Assistant Professor in Hindi subject. The petitioner is stated to have acquired his M. Phil Degree from Jawahar Lal Nehru University, New Delhi in the year 2014 in Hindi subject. The petitioner, having been found eligible, was selected for interview and he was placed at serial no. 962 in the list of eligible candidates, however in front of the name of the petitioner, in the said list of eligible candidates, it was mentioned that though the petitioner has passed NET and obtained M. Phil degree but the M. Phil degree is without U.G.C. Regulations, 2009. The petitioner had then sent his documents to the B.P.S.C. by E-mail, regarding him having obtained M. Phil Degree in Hindi as per the U.G.C. Regulations, 2009 and had requested the B.P.S.C. to correct his status in the list of eligible candidates by mentioning the same as NET + M. Phil as per the U.G.C. Regulations, 2009. Thereafter, an interview letter was issued to the petitioner and he had appeared in the interview, however he was not selected finally, which the

to know after the final result was



published on 12.02.2019 by the B.P.S.C.

3. The learned counsel for the petitioner has submitted that the petitioner has obtained M. Phil degree from Jawahar Lal Nehru University, New Delhi and it would be apparent from the certificate dated 18.05.2018, issued by the Jawahar Lal Nehru University, New Delhi that the petitioner fulfils the Minimum Standard and Procedures for the completion and award of M.Phil Degree in accordance with the then existing ordinance of the University and the provisions of the U.G.C. Regulations, 2009. The learned counsel for the petitioner has also referred to the certificate dated 03.03.2017, issued by the Assistant Registrar of the Jawahar Lal Nehru University, New Delhi, where it has been certified that the petitioner has successfully completed M.Phil Programme in the year 2014 and the process of admission, registration, course-work and evaluation were followed as prescribed by the U.G.C. Regulations, 2009 with regard to the award of degree of the said programme by the Jawahar Lal Nehru University, New Delhi. The learned counsel for the petitioner has further submitted that a bare perusal of the advertisement under the heading 'Educational Qualification' at Clause 3 would show that the candidates who have obtained



Ph.D. degree on the basis of Minimum Standard and Procedures Regulations, 2009, framed by the University Grants Commission for M.Phil/ Ph.D. degree, shall be exempted from passing the NET exam. It is thus submitted that since the petitioner has already passed the NET exam, he should have been granted 04 more marks as per Sl. No. 3 of Schedule V to the aforesaid Advertisement which stipulates that 04 marks should be given to such candidates who possess M.Phil degree as per U.G.C. Regulations, 2009 with NET. It is also submitted that since the petitioner is possessing M.Phil degree as per U.G.C. Regulations, 2009 and has also passed NET, he is entitled to 04 marks and if the petitioner is granted 04 more marks, he would definitely qualify as a successful candidate. In any view of the matter, it is submitted that as per the terms and conditions mentioned under the heading “Educational Qualification”, the only prescription is regarding a candidate possessing M.Phil degree as per the U.G.C. Regulations, 2009 for being exempted from passing the NET Exam, thus since the petitioner has already passed the NET exam, M.Phil degree with or without complying with the U.G.C. Regulations, 2009 would not make any difference. The learned counsel for the petitioner has also ref

inder affidavit filed by the petitioner



in the present case to submit that the petitioner had applied for being appointed as Guest Faculty/ part-time Teacher in pursuance to an advertisement issued by the B.N. Mandal University, Madhepura, Bihar in the year 2019 wherein the petitioner's M.Phil degree was considered to have been obtained as per the UGC Regulations, 2009, hence the B.P.S.C. should also consider the M.Phil degree of the petitioner to be one as per the U.G.C. Regulations, 2009.

4. The learned counsel for the respondent- B.P.S.C. Sri Neeraj kumar, Advocate has submitted that the M.Phil degree awarded to the petitioner by the Jawaharlal Nehru University, New Delhi has been issued without fulfilling the prescribed procedures under the U.G.C. (Minimum Standard and Procedures for the completion and award of M.Phil Degree) Regulations, 2009. In this regard, the learned counsel for the respondent- B.P.S.C. has referred to the said Regulations, 2009 and has submitted that the M.Phil degree is required to be issued after complying with the Minimum Standards and Procedure stipulated in Regulations no. 5 to 20 of the said Regulations, 2009, however a bare perusal of the certificate issued by the Jawaharlal Nehru University, New Delhi dated 18.05.2018



(Annexure 2 to the writ petition) would show that the M.Phil degree awarded to the petitioner has been issued upon compliance of Regulations No. 5, 8 to 10, 12 to 14, 17 and 18 only, however the rest of the Regulations have not been complied with, thus the M.Phil degree of the petitioner has been considered to be without compliance of Regulations, 2009, hence the petitioner has not been awarded 04 marks and instead has rightly been awarded only 02 more marks as per Schedule V to the Advertisement no. 50 of 2014. It is further submitted that the total marks obtained by the petitioner as per Schedule I to V, set out in the Advertisement no. 50 of 2014, is 69.45, which also includes 9 marks awarded to him in the interview and the same is less than the cut-off marks of 70.80 of his reservation category i.e. B.C. category, as such the petitioner has not been declared to be a successful candidate in his category.

It is also submitted that the interview letter issued to the petitioner clearly stipulates that the candidature of a candidate called for interview, is wholly provisional and appearance in the interview does not confirm the candidature of the candidate, inasmuch as the Commission reserves its right to take the necessary decision after ascertaining the certificates and



obtaining legal status of the applicant finally.

5. I have heard the learned counsel for the parties and gone through the materials on record. This Court finds that the dispute/ issue in the present case lies in a narrow compass, inasmuch as it is the contention of the petitioner that he has been awarded M.Phil degree as per the U.G.C. Regulations, 2009, hence he should be awarded 04 marks whereas on the contrary, the respondent-B.P.S.C. is of the view that the petitioner has been awarded M. Phil degree without complying with the Regulations, 2009, hence as per Schedule-V, he is entitled to only 02 marks, since Sl. No. 4 of Schedule V to the Advertisement no. of 50 of 2014, stipulates that in case a candidate possesses M. Phil Degree, not as per U.G.C. Regulations, 2009, but has qualified NET, only 02 marks would be awarded. This Court finds that as per the U.G.C. Regulations, 2009, M. Phil degree is required to be awarded in consonance and in compliance of Regulations 5 to 20 of the U.G.C. Regulations, 2009, whereas admittedly, the certificate issued to the petitioner dated 18.05.2018, by the Jawahar Lal Nehru University, New Delhi, does not show that Regulations No. 6, 7, 9 (IV), 15 and 19 have been followed while awarding M. Phil



degree to the petitioner, hence the respondent-B.P.S.C. has rightly granted 02 marks instead of 04 marks to the petitioner, in consonance with the stipulation set out at Sl. No. 4 to Schedule-V of the Advertisement no. 50 of 2014, which clearly provides that only if a candidate possesses M. Phil Degree as per U.G.C. Regulations, 2009 + NET, 04 marks would be awarded, however in case a candidate possesses M. Phil degree not as per U.G.C. Regulations, 2009 but has qualified NET, then such a candidate will be awarded only 02 marks. Therefore, this Court finds that the petitioner is not entitled for award of 04 marks and the respondent- B.P.S.C. has rightly awarded him 02 marks.

6. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I do not find any merit in the present petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

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