

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8449 of 2022

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Deepak Kumar Sinha Son of Gopal Prasad, resident of Village-Machhindra,
Police Station-Jhajha, District-Jamui (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Education Officer, Jamui.
5. The District Programme Officer (Establishment), Jamui.
6. The Block Education Officer, Jhajha, Police Station-Jhajha, District-Jamui.
7. The Panchayat Secretary, Gram Panchayat Raj Barajor, Police Station-Jhajha, District-Jamui.
8. The Mukhiya, Gram Panchayat Raj Barajor, Police Station-Jhajha, District-Jamui.
9. Md. Irfan Ansari, Resident of Village-Barajor, Police Station-Jhajha, District-Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Singh, Adv.

For the Respondent/s : Mr. Madan Jeet Kumar (Gp 20)

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 26-08-2022 The petitioner assails the order passed by the State Appellate Authority, whereby the appointment has been cancelled and it has been directed to provide appointment to the appellant by reinstating him.

Learned counsel for the petitioner submits that the State Appellate Authority has taken up the issue which was not raised by anyone during the earlier round of litigation. Learned



counsel submits that 20 marks are being added to the percentage for the purpose of preparing of merit, while the State Appellate Authority has treated the 20 marks as 2.2% alone erroneously. Learned counsel submits that apart from the petitioner other candidates who were prepared placed in the merit list were also granted the same benefit of 20 marks to their percentage marks calculated of the intermediate result.

I have considered the submissions and carefully examined the aspect.

This court notices that even in the earlier round of litigation taken up by the respondents before the State Appellate Authority, he had raised the dispute with regard to weightage point given to the respondent. The said aspect was found to have not been considered by the District Appellate Authority and in the earlier round of litigation the State Appellate Authority directed the District Appellate Authority to rehear the appeal and dispose of the appeal quickly. Where after, State Appellate Authority decided the appeal in favour of the present petitioner.

Aggrieved thereto, the respondent preferred fresh appeal before the State Appellate Authority. The State Appellate Authority considered the aspect relating to the weightage given for experience to the petitioner and found that as per rules 20



were to be added and not the percentage, as held by the High Court and affirmed by the Division Bench in L.P.A. No. 515/2015. The said decision was upheld by the Supreme Court in S.L.P. In view of the aforesaid aspect that only 20 marks can be added to the percentage meaning thereby the percentage of only 2.2% would be added for the experience part, the State Appellate Authority proceeded to examine the case of the appellant as well as that of the petitioner and observed as under:-

“Thus, the established position for giving weightage for minimum one year experience under the Rules is that it is 20 marks and not 20% with full marks of 900 in Intermediate examination weightage of 20 marks becomes 2.2% in terms of percentage. It may be noted that appellant Md. Irfan Ansari had 58.22% marks in Intermediate whereas respondent Deepak Kumar Sinha had 53.88% marks in same examination. After giving a weightage of 20 marks or 2.2% merit marks of respondent Deepak Kumar Sinha becomes 56.08% which is still less than merit marks of appellant Md. Irfan Ansari. Thus, after application of rules according to the above quoted decisions of Hon’ble High Court and Supreme Court of India appellant Md. Irfan Ansari comes to first position and respondent Deepak Kumar Sinha to second position. Thus, the respondent Deepak Kumar Sinha loses claim of employment by dint of weight for experience. In this situation



determination of other points like appearance of respondent Deepak Kumar Sinha on 13.08.2010 or 14.08.2010 and consequences thereof as well as validity of experience certificate of respondent Deepak Kumar Sinha become inconsequential. As a result, the appeal is allowed and the impugned order is set aside. Respondent Deepak Kumar Sinha will be removed from service within a fortnight and appellant Md. Irfan Ansari will be appointed or reinstated in his place within another fortnight. DPO (Establishment) will ensure that no payment will be made to the respondent in respect of any period after passing of this order.

With these directions, the appeal is disposed of.”

Thus, it cannot be accepted that the State Appellate Authority has looked into the question of granting weightage without any submission.

The view taken by the State Appellate Authority is in conformity with the view taken by this Court earlier and upheld in L.P.A. and by the Supreme Court itself. Thus, no interference is warranted.

The writ petition is devoid of merit and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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