

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 4034 of 2018

Chhote Sahani son of Late Ramashish Sahni, Resident of Mohalla- Shivanjali House, Road No. 11E, Rajendra Nagar, P.S.- Kadamkuan, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Agriculture, Government of Bihar, Patna
2. The Principal Secretary, Department of General Administration, Bihar, Patna.
3. The Principal Secretary, Animal Husbandry and Fish Resources Department, Govt. of Bihar, Patna.
4. The Agriculture Production Commissioner, Department of Agriculture, Govt. of Bihar, Patna.
5. The Director, Agriculture, Department of Agriculture, Govt. of Bihar, Patna.
6. The Director, Fisheries, Govt. of Bihar, Patna.
7. The Chairman, Bihar Staff Selection Commission, Veterinary College Campus, Patna- 14.
8. The Bihar Staff Selection Commission through its Secretary, Veterinary College Campus, Patna- 14.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Mahasweta Chatterjee, Ram Nibash Pd, Advs
For the S t a t e	:	Mr Anant Pd Singh, SC XV
For the Commission	:	Mr S S Sundaram, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 29-08-2022

Heard learned counsel for the petitioner and the respondents.

2 This writ petition has been filed for quashing the order dated 22.07.2017 whereby and whereunder the Respondent-Bihar



Staff Selection Commission (for brevity, *BSSC*) has rejected the petitioner's objection.

3 The brief factual background is that in terms of the provisions contained in the Agriculture Coordinator Cadre (Recruitment and Service Conditions) Rules, 2014 (for brevity, *Cadre Rules*), the BSSC was to conduct the process of selection and, accordingly, came out with an Advertisement dated 29.04.2015 for appointment on the post of Agriculture Coordinator against the 4391 vacancies. The petitioner made his application and participated in the process of selection and his name figured in the recommendation list (combined) at serial No 3034. The selected candidates, including the petitioner, were directed to appear in the office of the Director (Agriculture) with original educational certificates and other requisite testimonials. The testimonials, including the educational qualification etc, were scrutinized and the petitioner was recommended for appointment in the recommendation list (combined) by notification dated 24.01.2017.

4 Thereafter, a notice dated 22.05.2017 was brought out by BSSC informing candidates that their academic marks, experience and category would be specified on the website of the BSSC, Patna on 24.05.2017. The candidates were afforded an



opportunity to raise objection with respect to the details which were to be uploaded on the website. When the marks were uploaded on the website, petitioner came to know that he had not been awarded any academic marks. The petitioner, accordingly, made his objection to denial of academic marks to him based on his degree of Bachelor of Science (Honours) in Industrial Fish And Fisheries (for brevity, *IFAF*).

5 The weightage on experience was denied to suffer candidates which was the subject matter of CWJC No 13658 of 2016 which was disposed of on 30.05.2017 with a direction to the BSSC or authority concerned to consider the objections raised by the petitioners in those writ proceedings. All objections received, including that of the petitioner, were considered. Petitioner's objection regarding denial of academic marks for his degree in B Sc (Honours) in IFAF was rejected and his candidature was cancelled. He was, thus, not declared as a successful candidate in the combined merit list dated 29.12.2017 which also has been impugned in the instant writ proceedings. The petitioner has also sought a direction to the respondents to appoint him on the basis of the recommendation list (combined) dated 24.01.2017.

6 Petitioner's counsel submits that the BSSC, while rejecting the petitioner's objection, failed to appreciate that the



petitioner's degree of B Sc (Honours) in IFAF is included in the qualification "fisheries". It is, thus, submitted that the petitioner's qualification is one of the degrees specified in the eligibility criteria in Rule 8 of the Cadre Rules which reads as follows:

"8. Eligibility – Graduate in Agriculture Science/Animal Husbandry/Fisheries/Agriculture Engineering/Horticulture/Forestry/Dairy Technology from the recognized University/College or institute."

7 It is submitted that the Cadre Rules do not bar B Sc (Honours) degree in IFAF and, therefore, there was no basis for disallowing the petitioner's degree of B Sc (Honours) in IFAF for the purposes of academic marks. It is also submitted that while rejecting the petitioner's objection vide order dated 22.07.2017, the BSSC has relied on letter dated 07.06.2017 from the Directorate of Agriculture. Bare perusal of the letter dated 07.06.2017 would show that the same refers to an order dated 12.08.2009 bearing Memo No 4549 issued by the Agriculture Department on the issue of equivalence of the degree of B Sc (Honours) in IFAF with that of fisheries even though the order dated 12.08.2009 is not applicable for two reasons. Firstly, the said order considers the issue regarding equivalence for making appointment of a subject specialist. Secondly, the said determination had not reached finality as it was subject matter of one writ petition bearing CWJC No 5721 of 2010 in the case of



Inland Fisheries Societies -Versus- State of Bihar & Others. This Court, in the said writ proceedings, took note of the fact that the process of appointment in relation to which the writ petition had been filed, had been completed. The issue regarding equivalence of qualification, therefore, had become academic. This Court, therefore, disposed of the writ petition in the following terms:

“The issue of equivalence of qualification under the present advertisement has therefore become academic. There is no occasion for this Court to decide this academic issue at this stage. Needless to state that as and when the respondents may publish a fresh advertisement and the petitioners are aggrieved of the same, upon a challenge made by them the issue whether the decision dated 08.12.2009 was that of the State Government or not shall remain open for consideration.

The writ application stands disposed.”

8 The learned State Counsel, on the other hand, has submitted that the Cadre Rules, in clear and unambiguous terms, specifies the eligible qualifications in Rule 8, which has been taken note of by this Court. The Cadre Rules do not prescribe the qualification possessed by the petitioner (B Sc (Honours) in IFAF. Since the process of selection was being conducted in terms of the Cadre Rules, the petitioner cannot claim that his degree would come within “eligibility” under Rule 8 of the Cadre Rules. Claim regarding equivalence of qualification possessed by the petitioner and others, similarly situated with that of fisheries, was considered



at the Directorate level, which is evident from the two communications dated 07.06.2017 issued by the Director, Agriculture and order dated 12.08.2009 issued by the Agriculture Production Commissioner (for brevity, *APC*) (Annexures 16 and 17 respectively). Not a single candidate possessing the degree of B Sc (Honours) in IF AF had been selected in the selection process. The eligibility criteria of the Cadre Rules have strictly been followed uniformly.

9 The APC, after due consideration of the claim made for equivalence of the degree of B Sc (Honours) in IF AF with that of Bachelor of Fisheries Science (for brevity, *B F Sc*) after disposal of CWJC No 12834 of 2009, rejected the claim for equivalence by a well considered and speaking order dated 08.12.2009 (Annexure 19). Various points of distinction have been taken note of by the APC such as the fact that B F Sc is a technical degree imparted by Agriculture University whereas B Sc (Honours) in IF AF is a general degree imparted by general Universities. The other distinctions are:

(1) Admission to the B F Sc is by way of a joint entrance competitive examination by the State of Bihar and by the Indian Agriculture Research Institute, New Delhi at the State and



National level whereas admission to B Sc (Honours) in IFAF is not by State or National level competitive examination.

(2) The Course content in B F Sc is based on recommendation by the Deans Committee constituted by the Indian Institute of Research Council, New Delhi after approval by the Academic Council of the Rajendra Agriculture University.

(3) B F Sc is a four years curriculum comprising of eight semesters. The last two semesters are completely practical activities comprising of hands on training (experimental learning) and other such components; whereas B Sc (Honours) in IFAF is three years vocational course, the object of which is to provide opportunities of self-employment to the students.

10 Learned State Counsel has relied decisions of the Apex Court in the cases of *Mohammad Shujat Ali and others -Versus- Union of India and others*, since reported in 1975 (3) *Supreme Court Cases 76*, *State of Rajasthan and others -Versus- Lata Arun*, since reported in (2002) 6 *Supreme Court Cases 252*, *University of Mysore -Versus- C D Govinda Rao and another*, since reported in AIR 1965 491, *Prakash Chand Meena and others -Versus- State of Rajasthan and others*, since reported in (2015) 8 *Supreme Court Cases 484* and *Guru Nanak Dev University -Versus- Sanjay Kumar Katwal and another* on the point that



determination of eligibility is a prerogative of the employer having regard to the requisite skill for the post in question, requisite knowledge and expertise and that determination of equivalence of educational qualification is a technical issue involving proper assessment and evaluation of relevant academic standards and practical assignments of the qualifications. The same should normally be left to expert bodies. It is only wherein decision can be shown to be based on extraneous or irrelevant considerations, actuated by mala fide, irrational or preference being manifestly wrong that the Court should interfere in such determination of equivalence. Learned State Counsel has also relied upon a Division Bench decision of this Court in the case of *Deoraj Vats & Others -Versus- State of Bihar & Others*, since reported in 2017 (3) *PLJR* 26 wherein the Division, with reference to the eligibility criteria, has held the decision of the statute/rule making authority to be in consonance with the purpose of creation of the post of Agriculture Coordinator.

11 Having considered the rival submissions and the material available on record, this Court would find that Rule 8 of the Cadre Rules, in clear and unambiguous terms, lays down the qualification eligible for appointment. The various qualifications prescribed therein are exhaustive. The qualifications in Rule 8 of



the Cadre Rules are not qualified by an expression “or equivalent”. Cadre Rules prescribes an exhaustive list of equivalence eligible for the selection process and the advertisement has been issued under the Cadre Rules. The petitioner has applied knowing well the eligibility criteria prescribed in the Cadre Rules. He, therefore, is estopped from claiming that he should be considered as an eligible candidate based on a qualification, which is not prescribed in Rule 8 of the Cadre Rules. The rule/advertisement does not leave any discretion or scope for going into the issue of equivalence of any degree, other than what has been prescribed in Rule 8 of the Cadre Rules. Since the petitioner has applied with open eyes knowing that the prescription of eligible degrees was exhaustive under the Cadre Rules, having been declared unsuccessful, he cannot be permitted to turn around and challenge the prescription and raise an issue that the degree of B Sc (Honours) in IFAF, possessed by him, should be treated as an eligible qualification on the ground of being equivalent.

12 The submission of the petitioner’s counsel that there is no bar to the degree of B Sc (Honours) in IFAF, therefore, merits no consideration whatsoever. The other submission of the petitioner’s counsel that determination of the claim for equivalence under order dated 12.08.2009 by the APC was with respect to



appointment as a subject specialist is also untenable, for the reason that the said determination is not the sole basis for rejection of the petitioner's claim for equivalence of his degree. This Court would also consider the fact that much thereafter, the Cadre Rules have come into operation with effect from 21.05.2014. In the Cadre Rules, as taken note of above, exhaustive prescription of eligible qualification for selection as Agriculture Coordinator Cadre has been prescribed. This Court would also consider the fact that before considering the petitioner's objection, the BSSC had sought guidelines regarding petitioner's qualification, vis-a-vis, B F Sc. The Directorate of Agriculture, vide letter dated 07.06.2017 (Annexure 16), had clarified the issue and specifically communicated the decision that the petitioner's degree was not equivalent to that of B F Sc. This determination dated 07.06.2017 has never been assailed by the petitioner. On this ground also, petitioner is considered disentitled to the relief prayed for in the instant writ petition.

13 The proposition submitted by learned State Counsel regarding determination of equivalence being best left to the experts, based on precedents of the Hon'ble Apex Court also merits consideration as the same are binding precedents.



14 No grounds have been made out for claiming that the petitioner may be considered eligible based on his qualification of B Sc (Honours) in IFAF. Therefore, this Court is not inclined to interfere with the decision of the BSSC dated 22.07.2017 rejecting the petitioner's objection.

15 Thus, there is no occasion to interfere with the final merit list issued by the BSSC.

16 This writ petition is devoid of merit and is, accordingly, dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.09.2022
Transmission Date	NA

