

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14497 of 2021

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Brajesh Kumar, Son of Sri Pramod Kumar, Resident of 79, Chanakya Puri Colony, Behind, Dev Kothi, P.S.- Rampur, District- Gaya, Bihar- 823001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary-cum-Principal Secretary, Department of Science and Technology, Government of Bihar, Patna.
3. The Director, Department of Science and Technology, Government of Bihar, Patna.
4. The Principal, Government Polytechnic, Gaya.
5. The Bihar Public Service Commission, through the Chairman, 15 Jawaharlal Nehru Marg, Bailey Road, Patna- 800001.
6. The Chairman, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Bailey Road, Patna- 800001.
7. The Secretary, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Bailey Road, Patna- 800001.
8. The Controller of Examination of Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Bailey Road, Patna- 800001.
9. All India Council for Technical Education through its Chairman, Nelson Mandela Marg, Vasant Kunj, New Delhi- 110070.
10. The Chairman, All India Council for Technical Education, Nelson Mandela Marg, Vasant Kunj, New Delhi- 110070.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pushkar Bhardwaj, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 22-07-2022 Heard the parties through video conferencing.

The petitioner by way of this writ petition has prayed
as under:

*“i. For issuance of an order, direction or a writ of
certiorari for quashing and setting aside the list of*

ineligible candidates issued by the Bihar Public Service Commission on its official website on 07.07.2021 to the extent to which the petitioner has been declared ineligible to participate against the advertisement number 41/ 2020 issued for appointment to the post of Head of Department (Automobile) in Government Polytechnic/ Government Woman Polytechnic under Science and Technology Department.

ii. For issuance of an order, direction or a writ of certiorari for quashing and setting aside the Note- 1 and 2 under the table of Paragraph- 3 under the heading 'experience' of the advertisement number 41/ 2020 published by the respondent Bihar Public Service Commission whereby and where under it is stipulated that the experience of 10 years out of minimum experience of 12 years shall be in Teaching/ Research/ Industry at the level of Pay Scale- 9A to Scale- 11 and minimum two years' post Ph.D experience shall be in Scale- 12 on the ground that the aforesaid stipulation is contrary to Table- 1 of Appendix- 1 of the Bihar Polytechnic Education

Service Rules, 2020.

iii. For issuance of an order, direction or a writ mandamus for directing the respondent authorities to consider the experience of the petitioner while working as a Lecturer on contract basis in Government Polytechnic Institute, Gaya after being validly appointed as such on clearing a selection process on the ground that the petitioner has discharged the duties and functions of Lecturer during of aforesaid period albeit his appointment was on contract basis.

iv. For issuance of an order, direction or a writ of mandamus for directing the respondent Commission to declare the petitioner eligible for participating against the advertisement number 41/ 2020 issued for appointment of Head of Department of Government Polytechnic/ Women Polytechnic Colleges in the subject of Automobile and further for directing the Commission to process the form of the writ petitioner and consider him for appointment.”

Counter affidavit has been filed by the Bihar Public Service Commission. It is stated that in a meeting held on 28th

August, 2021, that the Commission has examined the position of the advertisement informed and there is no eligible candidate available for consideration for the post and, therefore, the Commission has decided to return the requisition for filling of the post to the department concerned vide its letter dated 16.09.2021. Notice in this respect has also been published on the website of the Commission. Thus, learned counsel submits that the writ petition has been rendered as infructuous.

The present writ petitioner has challenged the advertisement and also claimed his eligibility. Leaving the said question open to be examined in an appropriate case, this Court is satisfied that as the advertisement itself stands cancelled and the requisition having been returned to the Government, no further exercise is required to be opened.

The writ petition is declared infructuous, leaving the question opened as above.

(Sanjeev Prakash Sharma, J)

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Item No. 22

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