

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.949 of 2018

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Dr. Ajit Kumar Pandey Son of Late Dr. R.D. Pandey, Permanent resident of
A/74 Birla Colony, Phulwari Sharif, Patna.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Agricultural Dept. Govt. of Bihar, Patna.
2. His Excellency the Chancellor of Universities of Bihar, Raj Bhawan, Patna.
3. Vice Chancellor, Bihar Agricultural University, Sabour, Bhagalpur.
4. Bihar Agricultural University, Sabour, Bhagalpur through its Registrar.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Adv.
For the Respondent/s	:	Mr. Subodh Kumar Mishra, AC to GP-14
For the University	:	Mr. Shailendra Kumar Singh, Adv.
For the Chancellor	:	Mr. Rajendra Kumar Giri, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

5 05-07-2022 1. The petitioner has preferred this writ petition,
wherein he has prayed as under:-

(a) For quashing the entire merit list, prepared for appointment of Assistant Professor cum Junior Scientist, in the discipline of Soil Science prepared, in pursuant to advertisement no.7 of 2011, issued by the Bihar Agricultural University, Sabour, Bhagalpur as large scale bungling manipulation forgery favouritism has been committed as held by an enquiry conducted by one man committee of Hon'ble Mr. Justice (Retd.) Syed Mahfooz Alam, constituted by His Excellency, the Chancellor of Universities of Bihar.



(b) the petitioner further prays for declaring all the consequential actions, adopted by the university in pursuant to the said merit list including the appointments made in the discipline of soil Science, in pursuant to the said merit list.

(c) In the alternative petitioner prays for an appropriate writ/order/direction to the respondent to appoint the petitioner as Assistant Professor in the discipline of soil science, in pursuant to the said advertisement no.7 of 2011, for the reason that about posts of Assistant Professor cum Junior Scientist in the quota of unreserved category is still vacant and had the petitioner, been allotted 8/10 marks against the head experience, Research and Extension for which he was entitled to under the law, in accordance with the decision of the selection committee with regard to the distribution of marks/points, the selection of petitioner would have been the natural consequence.

(d) The relief is being sought for on the ground that the petitioner has illegally been allotted zero marks against experience out of 10 although he has more than four years of experience and a government organization of the status of ICAR according to which he was entitled for at least 8 out of 10 marks (@two marks per year) as fixed/decided by the Marks



Distribution Committee selection committee and which would had the effect of enhancing his total marks 62.01, thereby placing the petitioner much above the last person appointed with 57.57 marks category of UR candidates.

2. At the outset, learned counsel for the petitioner does not press his prayer with regard to the quashing of the entire merit list on the basis of the report submitted by the One Man Committee of Hon'ble Mr. Justice (Retd.) Syed Mahfooz Alam and only restricts his submissions with regard to claiming appointment on the post of Assistant Professor in the discipline of Soil Science under the said advertisement of 2011 issued by the University.

3. Learned counsel for the petitioner submits that as many as 61 post from general category were advertised by the Bihar Agricultural University, Sabour on 09.06.2011 of Assistant Professor cum Junior Scientist. The petitioner had applied and learned counsel has taken this court to the application form, wherein he has mentioned about his experience as a Senior Research Fellow and Horticulture Field Consultant. Learned counsel submits that so far as certificate relating to Senior Research Fellow is concerned, the same was



not available at the time of submitting of the application form but was issued later on by the ICAR on 03.04.2012. The same was, therefore, placed at the time of interview. Learned counsel submits that in spite of the aforesaid, he was not granted benefit of experience and zero marks were awarded although for each year of the experience done in field of Research and Extension, he was entitled for two marks. In the circumstances, if the marks would have been allotted to him for experience certificate, he would have been placed over and above the last person appointed, who possessed 57.57 marks, while the petitioner was granted 54.01 marks. Learned counsel submits that on account of non-consideration of the experience certificate, he has been left out from being appointed.

4. Apart from above, learned counsel also submits that in all there were 61 unreserved vacancy to be filled in the discipline Soil Science and the respondents have filled only 31 posts under the unreserved category and the petitioner ought to have been considered for appointment.

5. Per contra, learned counsel for the university submits that the university has carefully examined the form of the petitioner and found that no certificate of experience was attached with the application form and therefore no marks



would be allotted to him. It is his submission that as per the advertisement dated 09.06.2011 there was specific condition mentioned as under:-

6. Requisite academic qualifications, experience, awards, medals, fellowship etc. will be considered which have been awarded till last date of application.

7. No enclosure/certificates will be accepted after last date of application.

8. Details of the research papers with a copy of reprint is essential to be enclosed. In case of books photocopy of cover page, Preface, contents and back cover page be attached with the application.

6. The last date for submitting application form was 25.07.2011. As the petitioner did not submit any experience certificate along with his application form and has only produced certificates at the time of interview, the said experience certificate can not be considered for the purpose of grant of marks and the petitioner was rightly not granted a single mark for experience. Learned counsel further submits that the contention of the petitioner's counsel that there was 61 unreserved post is also erroneous. In all there were 61 posts and only 31 posts were available under the unreserved category and



the university has appointed 31 persons under unreserved category and the cut off was fixed at 57.57 accordingly. The cut off could not have been lower and therefore the petitioner cannot claim right of appointment. He has already been considered no further claim can be said to be made out in his favour. It is submitted that the petitioner has not placed any proof in support of his contention that he had annexed experience certificate along with his application form.

7. I have considered the submissions and also perused the application form. From its perusal, this court finds that the petitioner has not mentioned in his application form of any list of enclosures. In fact, the copy of the application form which the petitioner has enclosed as a document and placed on record, although has his photograph attached to it but does not have the signature of the candidate. This Court, is therefore, unable to accept, it was a copy of the original. The contention of the petitioner that he had attached the experience certificate along with his application form is doubtful and appears to be incorrect. He, therefore, could not have been granted benefit of experience as there was specific condition in the advertisement itself that said experience certificates are required to be enclosed up to the last date of application.



8. The other contention raised by learned counsel with regard to total number of unreserved vacancies and 61 is also not made out from the advertisement. In fact there was only 31 unreserved vacancies and the cut off was fixed at 57.57. The petitioner could not meet having only 54.01 the merit and he therefore was rightly left out.

9. Therefore, no case for interference is made out.

10. The writ petition is accordingly dismissed. No costs.

(Sanjeev Prakash Sharma, J)

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