

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12881 of 2018

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Ravi Ranjan S/o Sri Raghubar Dayal Singh R/o Bankmens Colony, Post Office- Lohia Nagar, Police Station- Patrakar Nagar, Kankarbagh, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Science and Technology Department, Bihar
2. The Chairman, Bihar Public Service Commission, Jawaharlal Nehru Marg, Bailey Road, Patna
3. The Secretary, Bihar Public Service Commission, Jawaharlal Nehru Marg, Bailey Road, Patna
4. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Jawaharlal Nehru M

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dr. Ratan Kumar, Adv.
For the State	:	Mr. Manish Kumar, AC to AAG-6
For the BPSC	:	Mr. P. N. Shahi, Sr. Adv with Mr. Ratnesh Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

2 05-09-2022

1. Heard the parties.

2. The petitioner by way of this petition submits that he should have been selected and appointed on the post of Lecturer in the subject of Chemistry as he had fared well in the exam.

3. It is submitted that the petitioner was first class graduate B.Sc Hon's with 576 marks out of 800. However, while in the written examination, he scored 510 marks out of 800, in the interview he was awarded only 3 marks out of 20.

4. As per the calculation of merit, the petitioner submits that as total percentage has been calculated as 37.56% in the BC category. Whereas, if the petitioner's Ph.d would have been considered, which he was undergoing at that relevant time, then his percentage would have come 41.16%. That apart, learned counsel submits that one other person was appointed under the physically handicap category, whereas there was no disabled category advertised. Learned counsel submits that the said candidate was also from BC category and scored only 35.35% and thus the petitioner had secured higher percentage than the concerned person namely Sunil Kumar and, therefore, he ought to have been selected.

5. Per contra, learned counsel appearing for the Bihar Public Service Commission has taken this court to this counter-affidavit, wherein it has been specifically stated that the candidates, who obtained cut-off in the written examination were allowed to appear for interview. Different cut-offs were fixed for general category 40 per cent, BC 36.5 per cent, EBC 34 per cent, SC/ ST /female category 32 per cent. The petitioner was from BC category and was called for interview and after having appeared in the interview his final score came to 37.56%, which is much less than the cut off marks for BC

namely 49.12%. Hence, he was not selected. With regard to the disabled category, it has been pointed out that the reservation provided by the State were required to be followed as was mentioned in the advertisement itself and as there is a reservation provided for the disabled category persons, the concerned person namely Sunil Kumar was granted the said benefit and was offered appointment. The petitioner, therefore, cannot claim against the said post meant for disabled category.

7. I Have considered the submission and find that the petitioner could only contest against similar placed persons and disabled category persons form a different class. Reservation has already been provided under the **Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995**, which was in force at the relevant time for differently abled persons. Accordingly, the Bihar Public Service Commission has rightly provided reservation and it was not required to show separately a vacancy for a disabled category as the disabled category falls in the horizontal reservation and not under the vertical reservation.

With regard to the contention of the petitioner of having completed his Ph.d degree after he has participated in the selection process; it is suffice to hold that the qualification as on

the last date of submitting of application, can only be taken into consideration and the respondent has rightly, therefore, not considered the Ph.d degree for the purpose of the calculation of the merit. Even, if the Ph.d degree is counted and added in the total percentage this Court finds that the petitioners percentage falls below the cut-off by a long margin. He scores only 41.56%, whereas the cut-off is 49.12 for the B.C. Category.

Keeping in view above, no case for interference is made out. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/ sachin
Item No. 13

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