

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10913 of 2021

=====

Urmila Kumari W/o Sri Kanhaiya Singh r/o Hajiyapur Ward No. 26, P.S. and
District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department,
Govt. of Bihar, Patna.
2. The Chief Medical Officer - cum - Civil Surgeon, Gopalganj.
3. The Incharge Medical Officer, Primary Health Centre, Thawe, District-
Gopalganj.
4. The Bihar Staff Selection Commission, Patna through the Secretary, Bihar
Staff Selection Commission, Patna.
5. The Secretary, Bihar Staff Selection Commission, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner	:	Mr. Ranjeet Kumar Pandey, Advocate
For the State	:	Mr. Ramadhar Singh, GP- 25
		Mr. Anirudh Kumar Singh, AC to GP- 25
For the BSSC	:	Mr. S. S. Sundaram, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 10-10-2023

1. Heard learned counsel for the petitioner and
learned counsel for the respondent-Commission.

2. The writ application has been filed seeking a
direction upon the respondent authorities to award 25 marks to
the petitioner for experience in recognition of her continuously



working as ANM since 07-07-2008 at the Primary Health Centre, Thawe, District Gopalganj. The petitioner further seeks consequential directions to appoint her on the post of ANM.

3. The petitioner participated in the process of selection for the post of Auxiliary Nurse Midwifery (for brevity 'ANM'), pursuant to Advertisement No. 03010216, dated 17-02-2016 (Annexure- 3).

4. It is submitted by learned counsel for the petitioner that the petitioner was working as an ANM in the Primary Health Centre (for brevity 'PHC'), Thawe, since 27-06-2008. It is submitted that though she has been working at PHC, Thawe, experience for her work was not considered for grant of marks to her in the process of selection. The result subsequent to the process of selection was published on 02-11-2018 (Annexure- 6). It is not in dispute that the petitioner's name did not figure in the selected candidates, as per result dated 02-11-2018. Two years thereafter, the petitioner has made an application under the Right to Information Act, 2005 (for brevity 'RTI Act, 2005') regarding marks awarded to her. She has been awarded zero marks for experience. It is thus submitted that ignoring the petitioner's experience of working at PHC, Thawe, is unsustainable, specifically in view of the fact that in the



provisional result, which was published vide Annexure- 4, the petitioner has been shown awarded points for experience. The submission is that once the petitioner was awarded marks in the provisional list, reducing the same to zero at a later stage is unsustainable.

5. It is also submitted that the Authorities have revised the result twice after 02-11-2018. The first revision of result is dated 20-01-2019 (Annexure -7), and the second revision of result is dated 03-07-2019 (Annexure- 8). As a result of the revisions, they have appointed candidates till the time petitioner has approached this Court and even thereafter. It is also submitted that vacancies are still remaining as seven thousand posts were advertised, which have not been filled up. It is thus submitted that if the petitioner is awarded marks for her experience, then the petitioner is entitle to be declared successful and offered appointment.

6. Learned counsel for the respondent-Commission submits that the result was published way back on 02-11-2018. The subsequent results which the petitioner claims to be revisions of result are actually the results made available by the re-evaluation of candidates, who had made objections regarding the marks awarded to them, when the initial result was declared.



The second revised result as per the petitioner's submission, is actually result of the candidate/s whose document verification were pending, and in process. The petitioner does not fall in either of these categories. It is not her case that she had made any objection regarding grant of marks to her after the result was declared. Thus, these two alleged revisions, do not inure to the petitioner's benefit, and the petitioner cannot be permitted to invoke the writ jurisdiction seeking grant of weightage/marks for her experience and a direction to appoint her as ANM.

7. It is also submitted that petitioner has not been awarded marks for experience because the certificate submitted by the petitioner did not bear any issue number or date, which fact has been duly communicated to the petitioner pursuant to her application under RTI Act, 2005, as is evident from Annexure-10 dated 12-01-2021.

8. On consideration of rival submissions, this Court is in agreement with the submissions advanced by the learned counsel for the respondent-Commission. The petitioner has approached this Court by filing a writ petition in the year 2021, whereas the final result of selection process was published on 02-11-2018. The alleged two revised results dated 20-01-2019 and 03-07-2019, will not confer any fresh cause of action in



favour of the petitioner, as neither the petitioner is affected by these nor does she falls in these categories. These two results are of candidates, who at the appropriate stage, in the selection process had raised objections which were pending consideration or whose document verification was pending verification from the time of selection process. They therefore, form a distinct and separate class than that of the petitioner who was sleeping over the issue for about two years. The writ petition on the ground of delay and laches is itself fit to be rejected.

9. Further the Court would also take notice of the reply given to the petitioner under RTI Act, 2005, dated 12-01-2021, wherein it has been stated that the experience certificate of the petitioner was neither bearing any issue number or date and has therefore, been rejected. The other submission on behalf of the petitioner that once the Authorities had taken the experience into consideration while publishing the provisional list, they could not have made the experience redundant and award zero marks at a later stage, this Court would observe that the provisional list does not create any right in favour of any person, and is subject to finalization. If the Authorities have found the experience certificate to be unsustainable, then there is nothing stopping them from acting on the findings. If at all



the petitioner was aggrieved, he was required to agitated the matter when the final result dated 02-11-2018 was published, which she has not done.

10. The writ petition, in the above circumstances, is considered to be devoid of merit and is dismissed.

(Madhuresh Prasad, J)

Raj kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28-10-2023
Transmission Date	N/A

