

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6632 of 2023

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Titu Sampada D/o Arun Kumar, R/o - Village - Wohabchak, P.O. - Sarbadha,
P.S.- Konch, District - Gaya (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Govt. of Bihar, Patna.
2. The Director-in-Chief, Health Services, Govt. of Bihar, Patna.
3. Bihar Technical Service Commission, through its Secretary, Patna.
4. Deputy Secretary, Bihar Technical Service Commission, Bihar, Patna.
5. Ambedica Kumari, D/o Uday Singh, aged about not known, R/o not known.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Santosh Kumar, Advocate
For the Respondent/s	:	Mr.Birju Prasad (GP-13)
		Ms. Shweta Anand, AC to GP-13
		Mr. Nikesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 25-08-2023 1. Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner is unsuccessful candidate in the
process of selection for Nursing Tutor initiated under an
advertisement, which is dated 21-01-2022.

3. It is the specific submission of the petitioner's
counsel, as per the averment made in the writ petition that the
selection process is based on marks obtained in Bachelor of
Science in Nursing (B.Sc Nursing), Master of Science in
Nursing (M.Sc Nursing) as also five marks per year for
experience (subject to a maximum of 25 marks). The break up



of the assessment is as follows:

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|------|--|-------------------|
| i. | B.Sc | -60 points. |
| ii. | M.Sc | -15 points. |
| iii. | and experience (5 points for one year, subject to a maximum of five years) | <u>-25 points</u> |

Total- 100 points

4. It is submitted by learned counsel for the petitioner that the petitioner and the respondent No. 5 have studied in the same college in B.Sc. She is aware that the marks of the respondent No. 5 in B.Sc. was 76.86, whereas she had obtained 79.36 percent. It is thus submitted that the respondent No. 5 was not better situated than the petitioner in terms of merit. The authorities therefore have wrongly declared her to be selected ignoring the petitioner, who is better in terms of merit.

5. From perusal of advertisement and the averment made in the writ petition, this Court finds that merely based on marks obtained in B.Sc, even if accepted to be true, the petitioner cannot claim a better position than the respondent No. 5. There are other two parameters with respect to which the petitioner has not made any averment based on which it can be shown that petitioner was better in merit and has been discriminated against.



6. There is no averment that Respondent No. 5 was not having an M.Sc degree or that she does not have any experience.

7. In absence of any such details throwing specific challenge to the candidature of respondent No. 5, this Court is not inclined to exercise its discretionary jurisdiction under Article 226 of the Constitution of India to embark upon a roving inquiry into the *inter se* merits of the petitioner and respondent No. 5; and proceed to cancel the entire result as prayed for in the writ petition.

8. Writ petition is dismissed.

(Madhuresh Prasad, J)

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