

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1013 of 2019

In

Civil Writ Jurisdiction Case No.14664 of 2019

=====

Santosh Kumar Sah, Son of Raj Kumar Sah, Resident of Satghara, Ward No. 2, P.S. Rajnagar, District- Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Disaster Management, Department, Govt. of Bihar, Patna
2. The District Magistrate, Darbhanga
3. The District Disaster Management District Darbhanga

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Md. Soban Asghar, Advocate
For the Respondent/s : Mr. Anjani Kumar, AAG-4
Mr. Asif Kalim, AC to AAG-4

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ARUN KUMAR JHA)

Date : 04-01-2023

Heard learned counsel for the appellant and learned counsel for the State.

2. The present L.P.A. is directed against the order dated 23.07.2019 passed in CWJC No. 14664 of 2019 by the learned Single Judge of this Court whereby and whereunder the civil writ petition filed by the appellant has been dismissed.

3. Brief facts of the case is that an advertisement was issued on 11.11.2017 by the Collectorate, Darbhanga for selection of Disaster Management Professionals (Senior Research Officer).



In the advertisement, the minimum qualification was fixed as Post Graduate degree in any one of the associated subjects with minimum five years experience in the concerned field. The appellant applied for the said post on 20.11.2017. Thereafter, interview was held on 13.03.2018 in which only three candidates, including the appellant, appeared before the Selection Committee and none of them were found to possess the requisite number of years of experience. As such, the Selection Committee decided to re-advertise the vacancy in the next financial year after due approval from the competent authority.

4. Feeling aggrieved and dissatisfied with the decision of the Selection Committee in rejecting the claim of the petitioner, the petitioner (appellant herein) preferred CWJC No.14664 of 2019. The learned Single Judge, finding no fault with the decision of the Committee, dismissed the appellant's writ petition. Hence, the present L.P.A.

5. The learned counsel for the appellant has submitted that the appellant applied for the said post on 20.11.2017 with all documents along with certificates showing eight and half years training as Master Trainer-cum-volunteer and also as a coordinator, but the selection committee accepted his experience of three years only and the learned Single Judge accepted the findings of the selection committee while dismissing the writ



petition. The learned counsel has further submitted that appellant appeared in interview with all documents on 13.03.2018 and had shown originals of training certificate of eight and half years. The learned counsel has further submitted that the appellant has more than eight years experience in the field of Disaster Management, but the same was not considered and the appellant was not appointed on the advertised post.

6. *Per contra*, the learned counsel for the respondents has submitted that the appellant has submitted two different experience certificates; one experience certificate dated 10.06.2016 showing experience of five years as a Master Trainer-cum-Volunteer and another experience certificate dated 24.09.2017 showing experience of three years as a Coordinator. The Interview Board-cum-Selection Committee has only accepted the experience of three years as a Coordinator. The appellant possesses only three years' experience for holding the post of Coordinator in Bapu Bal Vikash Mahila Kalyan Society. The other certificate dated 10.06.2016 specifically clarified that the appellant was volunteer but he had not served against any post in the organization. As such, the certificate issued on 10.06.2016 has not been taken into consideration. Thus, the Committee was absolutely justified in rejecting the claim of the appellant and two others who had appeared in interview as they did not possess the requisite number



of years of experience. The learned counsel has further submitted that the issuance of experience certificate to the tune of five years to the appellant for his work as Master Trainer-cum-Volunteer in Disaster Management Programme on behalf of Babu Bal Vikash Mahila Kalyan Society is contrary to the record since the same has been issued for part time work and he worked for one 18-20 days during the period of five years.

7. Having considered the material available on record and further considering the rival submission, one fact is clear that while advertising the post, the authorities have not mentioned and elaborated the manner in which the experience of five years in the relevant field was to be acquired. The details as well as eligibility as mentioned in the advertisement is quoted here-in-below for reference :-

	पद	सीट	पद	मानदेय	योग्यता
1	2	3	4	5	6
ख	Disaster Management Professionals (वरीय शोध पदाधिकारी)	01	संविदा	40000/- रु0 प्रतिमाह	1. अभियांत्रिकी/समाज/ प्राकृतिक / भू प्रतिमाह विज्ञान / कृषि विज्ञान / आपदा प्रबंधन में विश्वविद्यालय डिग्री / समतुल्य या व्यावसायिक संस्थान यथा व्यापार प्रबंधन / कम्प्युटर एप्लीकेशन / चार्टर्ड एकाउंटेंट / जन संचार / आपदा प्रबंधन इत्यादि से स्नातकोत्तर डिग्री। 2. सम्बद्ध क्षेत्र में न्यूनतम पाँच वर्षों का अनुभव



The advertisement does not mention the manner in which the requisite experience was to be acquired. So subsequent insistence of the authorities regarding any particular mode of procuring the experience to detriment of the appellant could not be sustained.

8. The appellant produced the certificates of requisite experience before the selection committee and the learned Single Judge erred while accepting the finding of the selection committee whereby it rejected the claim of the appellant and two others who had appeared in the walk-in-interview holding that they did not possess the requisite number of years of experience. There is no point on saying that the appellant worked as a Volunteer or as a Coordinator. If the appellant was having the requisite years of experience to show, rejection of his claim does not appear to be proper.

9. So far as contention of the respondents regarding manner of issuance of experience certificate to the appellant is concerned, the respondents are at liberty to take appropriate action in issuing the certificate by the institution or verify the validity of such certificate.

10. In the light of discussion made hereinabove and under the facts and circumstances of the case, the present L.P.A.



deserves to be allowed and is accordingly allowed. The order of learned Single Judge dated 23.07.2019 passed in CWJC No.14664 of 2019, is quashed and set aside.

11. Selecting and appointing authorities are hereby directed to revisit in assessment of experience certificate of the appellant and take decision as to whether the appellant is entitled to be selected and appointed or not? The above exercise shall be undertaken within two months from the date of receipt of this order and communicate the decision to the appellant at the earliest.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	10.01.2023
Transmission Date	10.01.2023

