

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4621 of 2020

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Sagarika Chowdhary @ Sarita Kumari Daughter of Mandrika Chaudhary and wife of Balendushekhar Mangalmurty, resident of village/kasba Ahar Pshchimi Bahellya Tola, Anchal- Tajpur, P.s.- Tajpur, District- Samastipur- 848130, Bihar. Presently residing at C/72 sector, Police Colony, Anisabad, P.o.- Anisabad, P.s.- Gardanibagh, District- Patna-800002, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. The State of Bihar through Secretary, Education Department, Government of Bihar, Patna
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna
4. The Chairman Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg (Bailey Road), Patna-800001, Bihar
5. The Secretary, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg (Bailey Road), Patna-800001, Bihar
6. The Joint Secretary Cum Examination Controller, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg (Bailey Road), Patna-800001, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Apurva Kumar
For the State	:	Mr. Kameshwar Kumar (Gp17)
		Mr. S.K. Ranjan, AC to GP 17
For the BPSC	:	Mr. Sanjay Pandey
		Mr. Nishant Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 09-09-2024

Heard Mr. Apurva Kumar, learned counsel on behalf of the petitioner, Mr. Kameshwar Kumar GP 17, learned counsel on behalf of the State and Mr. Sanjay Pandey, learned counsel appearing on behalf of the Bihar Public Service Commission (hereinafter referred to as the “BPSC”).



2. The present writ application has been filed on behalf of the petitioner for the following reliefs:-

(i) For a direction to respondent authorities to include the name of the petitioner in the final result/merit list of Assistant Professors (for the subject History) dated 25.05.2018 as published by the respondent no.5, which has been published without following the rules and regulations enshrined by the respondents authorities themselves, further the petitioner's name did not figure in the merit list due to several latches on the part of the respondent and also the name of petitioner was omitted due to error on the part of respondents.

(ii) For directing the respondent authorities to publish a revised merit list of the post of Assistant Professors under SC (02) category for the subject of History after including the name of the petitioner and consequence directions thereof to the authorities concerned.

(iii) For directing the respondents to produce before the Court, the original records of the petitioner and other candidate who has been selected and chosen successful vide merit list dated 25.05.2019 for the post of Assistant Professors under SC (02) category for the subject of History by the respondent no.5.

(iv) for forbidding the respondents authorities to further issue any direction or notice with regard to the intake of the services of newly appointed professors on all 42 seats (as published), if not already issued and further prays for status quo.

(v) for commanding the respondents to act in accordance with law as well as to act as per the rules and regulations of Advertisement no.53/2014 pertaining to appointments of Assistant Professors.

(vi) For considering the candidature of the petitioner under Assistant Professor, History as selected candidate as her candidature was neglected only for the reason that her original Graduation mark sheet (B.A) was not duly verified at the time of interview by the authorities and in lack of such she was awarded zero marks as against graduation qualification, though she produced her



provisional certificate and hence she was not selected in SC (02) category for above mentioned post of Assistant Professor, History.

(vii) For any other relief for which the petitioner is found entitled to be in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the case at length is that the petitioner duly filled up the form for the post of Assistant Professors against the Advertisement No.53/2014 published by the BPSC, under the category SC (02) for the subject of History. After receiving the petitioner's application, the interview letter for the post of Assistant Professor under SC (02) category, subject History was issued and published by the BPSC wherein name of the petitioner mentioning therein her roll no.53012801 including date, time and place of interview along with certain instructions and rules/parameters to be followed by the petitioner during on or before the interview. (Annexure-2 of the writ application).

4. He further submits that petitioner faced the interview and she was confident enough that she will make it to the desired post for which she had applied and she was present in the interview with all the required documents as she was asked for, as mentioned in the interview letter. (Annexure-3 of the writ application).

5. Subsequently, result was published (for Assistant



Professor for the subject History including SC (02) category) by the respondent, undersigned by respondent no.5 dated 25.05.2019 in which to utter surprise of the petitioner her name did not surfaced without any reason. (Annexure-4 of the writ application).

6. He further submits that the candidature of the petitioner was rejected for the reason that at the time of interview she did not produce/submit the original B.A. mark sheet for verification rather provisional mark sheet was produced, petitioner found this reason very annoying that though she presented her provisional mark sheet which as per her knowledge did not differ with the original mark sheet as the issuing authority was same in both the cases, further no deadline or time was ever granted to the petitioner for rectifying her mistake.

7. He further submits that the petitioner was having the original certificate at that relevant time but could not bring/produce the original B.A. certificate at that relevant time as she came for interview in haste and above all the desired mark sheet i.e. original mark sheet of B.A. did not differ from the provisional mark sheet as the issuing authority was the same in both the cases and further the respondent authorities



till date has not taken burden to ask the petitioner for original mark sheet even on the sympathetic ground. If proper evaluation meaning thereby taking into consideration the grace marks to be given on the degree of B.A. is done, the petitioner has fair chance to succeed on the post of Assistant Professor, History in SC (category) as cut off marks for SC (02) category is 35.80 only and the selection criteria fixed was 85 marks for academic performance and 15 marks for interview and petitioner having roll no.53012801 applied for the interview based on her academic performance she had secured 49 marks out of 85 marks and considering the marks of interview (not allotted) she would have cracked the results.

8. He further submits that petitioner was earlier known as Sarita Kumari and she got her name duly corrected modified/amended to Sagarika Chowdhary. (Annexure-5 of the writ application).

9. Petitioner filed a representation before the Chairman, BPSC, mentioning therein all the relevant details but till date no concrete action/step has been taken by the authorities concerned. (Annexure-7 of the writ application).

10. A counter affidavit is filed on behalf of the respondent no.4 to 6. It is submitted by the learned counsel appearing on



behalf of the respondent no.4 to 6 that the BPSC is a recommending body and in the matter of appointment or otherwise abides by the Rules and Regulations framed by the State Government. The BPSC has published the advertisement for appointment to the post of Assistant Professor, subject of History in the Constituent Colleges of different Universities of Bihar.

11. He further submits that on the basis of said requisitions, Bihar State University (Amendment) Act, 2013 and Statutes for Appointment of Teachers (Assistant Professor Grade) for the Universities of Bihar, 2014, approved by the Chancellor and notified by memo no.BSU-25/2014-1359/GS(1) dated 11.09.2014 and received from the Department. The Advertisements for different posts of Assistant Professors in different Universities, viz. Advertisement Nos. 44/2014 to 84/2014 were published by the BPSC including the Advertisement No.53/2014 (Assistant Professor, History). All the terms and conditions were mentioned in the Advertisement. The roster wise vacancy was as follows: General (01) – 133, SC (02) – 42, ST (03) – 02, EBC (04) – 46, BC (05) – 30, BCL (06) – 08, Total – 261. (Annexure-A of the counter affidavit).



12. The required essential qualification according to the requisition of the concerned Department and as published in the Advertisement Nos.44/2014 to 84/2014 are as follows:

(i) A candidate should have throughout good academic record with minimum 55% marks at Masters' Degree or equivalent (or equivalent grade).

Relaxation of 5% marks for SC/ST candidate of the State, while physically challenged persons from any part of the country will be given relaxation of 5% marks at Master's Degree. But both benefits shall not be admissible to any such candidate.

(ii) A candidate must have passed NET/ SET or equivalent test accredited by UGC.

(iii) The candidates who have obtained Ph.D. degree on the basis of Minimum Standard and Procedure Regulation 2009, framed by U.G.C. for M.Phil./ Ph.D. Degree shall be exempted from passing the NET.

(iv) NET/SET shall also not be required for such Master's Programs in disciplines for which NET/ SET is not conducted.

13. He further submits that interview was held between 15.11.2018 to 20.11.2018 and 22.11.2018 and 23.12.2018 in



the premises of the BPSC. The petitioner was also called for interview on 17.11.2018 and a combined merit list was prepared on the basis of academic marks and interview marks of the candidates. Total 261 candidates were selected and declared successful as per the merit list. The result was published on 25.05.2019 and revised on 21.08.2019.

14. The petitioner, roll no.53012801, SC (02), could not be declared successful because her candidature was rejected by the BPSC as she did not get her original mark sheet of graduation verified by not producing the same at the time of her interview. So, she was awarded zero marks for graduation. In this case, after reducing the marks of graduation she has secured only 31.50 marks in academics and 11 marks in interview, total 42.50 marks, (Academic – 31.50 + Interview – 11) which is less than the cut-off marks i.e. 68.15, 57.75 and 64.25 marks for Gen (01), SC (02) and BCL (06) category respectively. After interview, as her total marks was less than the cut-off marks against SC (02) category. So, her candidature has been cancelled/rejected.

15. He further submits that all the candidates who were called for interview were directed vide clause 2 of the interview letter and clause 4 of the interview programme to



be present with the original and photo copies of different certificates including the mark sheet of Graduation but despite of that petitioner failed to get her original mark sheet of graduation verified before the interview.

16. In view of the aforesaid, the candidature of the petitioner was rejected by the Commission in its meeting held on 20.05.2019 and this is also apparent from Annexure-4 of the writ application.

17. He relied upon the Judgment of this Court passed in L.P.A. No.11 of 2017, in which the Division Bench of this Court held that:-

“ On account of the fact that as per the condition stipulated in the advertisement, the petitioner was unable to produce the original certificates, his candidature has been rejected. The learned Writ Court has gone into the matter in detail and finding the Bihar Public Service Commission to have not committed any default and having implemented the condition stipulated in the advertisement correctly refused to interfere in the matter. Once the Commission has strictly followed the condition of the advertisement not only in the case of the petitioner, but also in the case of various other persons without any discrimination and the condition stipulated in the advertisement has been implemented strictly without any deviation from the same as this cannot be permitted, and if taking note of all these factors, the learned Writ Court has dismissed the writ petition, we find no error in the same warranting reconsideration. The appeal is dismissed.”



18. Considering the arguments advanced on behalf of the parties and the order passed by the Division Bench of this Court in L.P.A. No.11 of 2017, I find no merit in the present application and it is accordingly, dismissed.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2024
Transmission Date	NA

