

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.653 of 2024
In
Civil Writ Jurisdiction Case No.16795 of 2023

-
-
1. The Bihar State University Service Commission through its Chairman, 8th Floor, Bihar School Examination Board Academic Building, Buddha Marg, Patna - 800001.
 2. The Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board Academic Building, Buddha Marg, Patna - 800001.
 3. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board Academic Building, Buddha Marg, Patna - 800001.

... .. Appellants

Versus

1. Amiya Shekhar Son of Shiv Kumar Singh, Resident of West of Aparajita Apartment, Bahadurpur Housing Colony, P.S. - Agam Kuan, District- Patna, Bihar - 800026.
2. The Aryabhatta Knowledge University, Patna through the Registrar, the Administrative Block, Mithapur, Patna, Bihar 800001.
3. The Vice-Chancellor, Aryabhatta Knowledge University, Patna, the Administrative, Block, Mithapur, Patna, Bihar - 800001.
4. The Registrar, Aryabhatta Knowledge University, the Administrative Block, Mithapur, Patna, Bihar - 800001.

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. P. K. Shahi, Sr. Advocate Mr. Harsh Singh, Advocate
For the Respondent/s	:	Mr. Kumar Kaushik, Advocate Ms. Namrata Dubey, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE NANI TAGIA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 06-09-2024

Re: I.A. No. 02 of 2024:-

The present application has been filed under Section 5
of the Limitation Act seeking condonation of delay of 21
days.



2. Having gone through the affidavit, accompanying the delay condonation application, we are satisfied that there is sufficient cause for delay condonation.

3. Accordingly, the delay in filing the appeal is condoned and this interlocutory application is allowed.

Re: L.P.A. No. 653 of 2024:-

1. The appellant-University Commission is concerned with the judgment of the learned Single Judge which followed another judgment passed in C.W.J.C. No. 4952 of 2022, produced at Annexure-P5 to the writ petition. The issue agitated, is as to whether, the delayed submission of an experience certificate with counter-signature of the Registrar of the University, would be accepted for evaluating the writ petitioner in the selection for appointment to the post of Assistant Professors in the different Universities in the State of Bihar.

2. Learned Senior Counsel, Mr. P. K. Shahi, appeared for the appellant-Commission and contended that the petitioner had submitted a delayed experience certificate, which could not have been reckoned by the Commission. The advertisement itself was published on 21.09.2020 and the last date of submission of application was 10.12.2020.



Specifically referring to the advertisement, it is pointed out that the experience was to be counted only if certificates are submitted with counter-signature of the Registrar of the University. Admittedly, the certificate, submitted by the petitioner, who was an applicant, was without the counter-signature of the Registrar. The Commission was forwarded a proper experience certificate with the counter-signature of the Registrar, only on 17.08.2023, by which time the selection had proceeded considerably. It is pointed out that the judgment in C.W.J.C. No. 4952 of 2022 was in *personam* and the permission granted was only with respect to the petitioners therein whose experience certificates were directed to be accepted.

3. The Respondent No. 1 herein, who was the writ petitioner, had never approached the Court before the present writ petition, which was also filed after the selection process had proceeded considerably.

4. Learned counsel Mr. Kumar Kaushik appearing for the respondent referred to C.W.J.C. No. 4952 of 2022 and submitted that the declaration therein applies squarely and there was a specific direction that the Principal should transmit the experience certificates within a time frame



and the Registrars should countersign the same after due verification, expeditiously. It is on account of this judgment that the petitioner applied for countersigning of the certificate on 11.04.2023, which was received on 31.07.2023 and sent to the Commission on 17.08.2023. It is pointed out that the selection is still in process and hence, there is no difficulty in considering the experience certificate.

5. We have seen that the advertisement is of the year 2020 and the last date of submission of the application was on 02.11.2020, which was also to be done, online. The last date of online submission of applications was then extended to 10.12.2020 and the last date for submission of hard copy of the applications uploaded online, was on 30.12.2020.

6. It is seen from advertisement produced at Annexure-2 that under clause 7, the criteria for shortlisting of the candidates for the post of Assistant Professor has been stipulated; as per Clause 7.2. Sub-clause (6) specifically speaks of teaching/post doctoral experience being granted 2 marks for each year, subject to the maximum of 10 marks. It is also specifically indicated that the benefit of such experience will be given only on the basis of the certificate countersigned by the Registrar of the concerned University.



7. Necessarily, the experience that can be considered is only that which was available to the petitioner as on the last date of the application. The petitioner admittedly did not submit the experience certificate countersigned by the Registrar of the University along with the application form.

8. Learned counsel for the petitioner/Respondent No. 1 submitted that as a matter of policy the respondent University did not entertain requests for counter-signature of the Registrar, in the experience certificates. When the request for countersigning of experience certificate was not responded to by the Registrar of the Aryabhata Knowledge University, the petitioners in C.W.J.C. No. 4952 of 2022 had approached this Court. The petitioners case hence is identical to that of the petitioner in the cited case and the same principle has to be applied.

9. We, however, are unable to accept the said contention, especially since the benefits of the judgment in C.W.J.C. No. 4952 of 2022, for acceptance of experience certificate, was available only to the concerned parties. Insofar as directions issued to the Principal and the Registrars for expeditious transmission of experience certificates and the counter-signature after due verification is concerned, the same



cannot give rise to stale claims being revived. The directions can apply only in the future. If the Registrar or University refused to entertain requests for counter-signature of experience certificates, then it was for the affected party to approach the appropriate forum immediately. This was what the petitioners in the cited case did and was hence granted favourable orders.

10. As far as the petitioners case, even in the writ petition, there is no statement made by the petitioner as to any efforts having been made by the petitioner to get the counter-signature on the experience certificate, by the Registrar of the University. The petitioner did not even have a claim that a request made for counter-signature was either not entertained or declined; since no such request was made. The petitioner rested contend, on the ground that the Registrar was not in the habit of countersigning the experience certificate, which should have been applied for and then challenged before the appropriate forum, if declined or not entertained.

11. The judgment passed in C.W.J.C. No. 4952 of 2022 cannot be relied on by the petitioner. The petitioners therein, diligently approached the Court and obtained orders for acceptance of their experience certificate which is



confined to the petitioners therein. As far as the directions are concerned, it definitely regulates the future conduct of transmission of experience certificates and countersigning of the same, after due verification. As we observed, it cannot revive stale claims.

12. The petitioner applied under an advertisement and submitted an experience certificate, which was not in consonance with the requirement. Before the last date of the application, there was not even an attempt made to obtain a certificate in consonance with the requirement. Some others, similarly situated, approached this Court and obtained directions. It is based on the said order that, belatedly, the petitioner came to this Court; by which the selection had progressed considerably. If such delayed and stale claims are entertained, it will put the entire selection process to jeopardy. The directions issued for expeditious transmission of experience certificates to the University & counter-signature, after due verification does not help the petitioner, who, before the application made no attempt to get such counter-signature before submitting the application; under an advertisement which mandated such counter-signature.

13. In view of the above reasoning on the stated facts



and circumstances of the case, we find absolutely no reason to uphold the judgment of the learned Single Judge. We allow this appeal and set aside the judgment passed by the learned Single Judge and as a consequence, reject the writ petition.

(K. Vinod Chandran, CJ)

(Nani Tagia, J)

Nishant/-

U			
---	--	--	--

