

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.712 of 2024

In

Civil Writ Jurisdiction Case No.10421 of 2024

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Soumya Bharadwaj Daughter of Sanjay Kumar Jha, resident of Village-Bihari, P.O.-Narauchh Dham, Via-Ratanpur Abhiman, P.S.-Jale, District-Darbhangha-847307.

... .. Appellant/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Govt. of Bihar, Patna.
2. The Bihar Public Service Commission Patna through its Chairman.
3. The Additional Secretary cum Examination Controller, Bihar Public Service Commission, Patna.
4. Uma Kumari, Roll No. 901573, selected under EWS category for the post of Drug Inspector against advertisement No. 09/2022.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Prashant Sinha, Advocate
For the BPSC	:	Mr. P.K. Shahi, Sr. Advocate
		Mr. Sanjay Pandey, Advocate
		Mr. Nishant Kr. Jha, Advocate
For the State	:	Mr. Vikash Kumar, AC to AG

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-07-2024

The appellant is aggrieved with the judgment of the learned Single Judge which refused to consider her claim for being considered under the Economically Weaker Section (E.W.S.) category in the selection carried out to the post of Drug Inspectors. The learned Single Judge on facts found that though there was a modification made to the advertisement, insofar as



the experience provided for being considered for selection, the terms of being entitled under the E.W.S. category had not been modified. The writ petitioner having not produced the certificate of the E.W.S. category for the year 2021-2022, stood disqualified, which was held to be perfectly in order.

2. Shri Prashant Sinha, learned Counsel for the appellant pointed out from the advertisement that Clause (8) (viii) provided for the certificate to be in Schedule-I (Form-I) as per the Rules applicable. The advertisement as produced at Annexure-6 had a stipulation with respect to experience for the purpose of eligibility for selection to the post of Drug Inspectors. The experience provided was as available under Rule 49 of the Drugs and Cosmetics Rules, 1945. One of the candidates approached this Court with a writ petition in which Annexure-7 order was passed. Annexure-7 relied on a decision of the Full Bench of the Allahabad High Court in the case of ***Kuldeep Singh & Ors. vs. State of U.P. & Anr. Reported in 2014 SCC OnLine All 51119***, in which it was held that Rule 49 is only a bar of authorisation to inspect the manufacture of substances and is not an essential qualification for appointment as Drug Inspector. The learned Single Judge directed the Bihar Public Service Commission (for brevity 'B.P.S.C.') to file a



counter affidavit and permit the petitioner to take part in the selection process.

3. The State itself reversed its stand and issued Annexure-8 advertisement. As per Annexure-8 advertisement, submissions of applications was recommenced from 24.05.2023 and the last date was prescribed as 30.05.2023. The appellant also applied under the aforesaid advertisement and was denied the appointment only since she had produced the E.W.S. certificate applicable for the year 2022-2023. The learned Counsel specifically referred to the Bihar Reservation in Vacancies of Posts and Services and in Admissions in the Educational Institutions (For Economically Weaker Sections) Act, 2019 (for brevity 'Act of 2019') to contend that the certificate produced of the year 2022-2023 was in accordance with the said enactment.

4. Shri P.K. Shahi, learned Senior Counsel appearing for the respondent-B.P.S.C. pointed out that Annexure-8 itself contained the stipulation. Except for the experience provided in the earlier advertisement having been modified, all other conditions had to be as per the earlier advertisement. The further advertisement issued at Annexure-8 especially contained the provision that the educational qualification or mark-sheets



should as on the date of the last date of online applications as per the first advertisement; which was on 16.12.2022. The learned Counsel for the appellant would, however, refute the contention on the ground that this applied only to educational qualifications and not to the certificate regarding reservation categories.

5. Admittedly, the appellant is qualified to apply and had applied under Annexure-8 advertisement; which was necessitated only because of modification with respect to the experience as stipulated in the earlier notification. The recruitment year was 2021-2022 and the selection was also as per the earlier advertisement. The earlier advertisement purely stipulated that the E.W.S. certificate to be produced was of the year 2021-2022.

6. Even looking at the Act of 2019 as argued by the appellant, the recruitment year is a calendar year during which a recruitment or admission is actually to be made and the validity of the income and assets certificate will be of one year from the date of issue. The verification of E.W.S. certificates also is provided under Section 6. The recruitment year in the present case was 2021-2022 and only due to the peculiar circumstances of an unworkable experience being provided; which would have



restricted the direct recruitment of Drug Inspectors, there was a modification made which resulted in the selections being carried over to the next year.

7. When the advertisement was issued, it was specified that all the conditions would be as per the earlier advertisement. The eligibility had to be as per the earlier advertisement i.e., as on 16.12.2022, which was the last date for filling of online applications. Hence, the recruitment year in the present case is 2021-2022 and the selections got deferred only in the peculiar circumstances as herein above stated, to the next year. When the qualifications are to be related to the previous year and should be as on 16.12.2022; there is no credence in the contention raised that the E.W.S. certificate should be of the current year in which the selections were carried out. True, the validity period was for one year, but considering that the selections were made based on the eligibility as on 16.12.2022, necessarily the E.W.S. certificate also had to be produced as of the year 2021-2022. The E.W.S. status should be as on 16.12.2022 and hence it should be a certificate of the year 2021-2022. The appellant did not produce the E.W.S. certificate for that year while the category wise eligibility was considered on the basis of the certificates produced by all the other



candidates related to the year 2021-2022. The appellant by her own default disqualified herself from the selections. The appellant also did not obtain the cut-off marks for being considered under the Unreserved (Woman) Category.

8. We find absolutely no reason to interfere with the judgment of the learned Single Judge and dismiss the appeal.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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