

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17737 of 2016

=====

Sanjay Kumar Mishra son of Late Dr. Haribansh Prasad Mishra, resident of
Village- Jigina Mishra, P.S.- Bhatni, District- Deoria, State of Uttar Pradesh.

... .. Petitioner/s

Versus

1. Bihar Agricultural University, Sabour, Bhagalpur, through its Registrar having Office at Sabour, Bhagalpur.
2. The Vice Chancellor, Bihar Agricultural University, Sabour, Bhagalpur.
3. The Director (Administration), Bihar Agricultural University, Sabour, Bhagalpur.
4. The Officer-in-Charge (Recruitment) Bihar Agricultural University, Sabour, Bhagalpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rabindra Kumar Choubey, Advocate
	:	Ms. Mina Kumar, Advocate
For the Respondent/s	:	Mr. Chandra Mohan Singh, Advocate
For B.A.U.	:	Mr. Rana Vikram Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 30-07-2024

1. Heard learned counsel for the parties concerned.
2. The present writ application has been filed for a direction to the respondent- Bihar Agriculture University, Sabour, Bhagalpur (hereinafter referred to as B.A.U. Sabour) to appoint the petitioner on the post of Section Officer on the ground that he qualified the written examination and was called for interview, in pursuance to Advertisement no. 11 of 2011. According to the petitioner, he was initially appointed as Field Overseer, thereafter, he worked as Office Clerk for about 10 years and as Personal Assistant for 01 year and at the time of



filing of the writ application, he was working as Head Assistant in the Office of DRI-cum-Dean PGS in the University Headquarter, after creation of B.A.U. Sabour, Bhagalpur.

3. Learned counsel for the petitioner submits that Advertisement no. 11 of 2011 dated 01.09.2011 was published, inviting applications for 11 posts of Section Officer in B.A.U. Sabour. The petitioner applied for the post and was called for written examination held on 22.04.2012. As the petitioner qualified in the written examination, he was called for interview on 03.05.2012. After the interview, total 11 candidates were selected, out of which 09 candidates joined and after few days, two candidates resigned, accordingly 04 posts of Section Officer remained vacant.

4. Learned counsel further submits that the remaining 04 posts (UR-02, EBC-01 and SC-01) were re-advertised vide Advertisement no. 08 of 2013. The petitioner applied again but not called for interview, as no written examination was held this time. Only 05 candidates were called for interview, out of which, 02 candidates appeared for interview and got selected. Again, 04 posts were advertised vide Advertisement no. 2 of 2014, in which, petitioner applied but was not called for interview and all 04 posts were filled up. Out of the 04 posts,



which were filled up, two candidates resigned, as such, 02 posts became vacant, for which, again Advertisement no. 5 of 2015 was published and this time also, the petitioner was not called for interview. Thereafter, petitioner filed representation before the Vice-Chancellor on 23.09.2015, requesting to appoint him on the post of Section Officer.

5. Learned counsel next submits that petitioner qualified in the written examination held in the year, 2012, pursuant to Advertisement no. 11 of 2011, as such, respondents were bound to called the petitioner for interview, as per the subsequent advertisement.

6. On the other hand, learned counsel for the University argued that 11 posts of Section Officer was advertised under the Advertisement no. 11 of 2011. As per the provisions of the Statute, a Screening Committee was constituted and according to the eligibility conditions for appointment, the Committee found altogether 72 candidates including the petitioner eligible to participate in the recruitment process, keeping in mind the policy decision prevailing at that point of time. The petitioner was not holding the post of Assistant but keeping in view the policy decision prevailing at that point of time, his candidature was considered for selection,



in pursuance to Advertisement no. 11 of 2011. The petitioner was not recommended for appointment on the basis of overall performance in the entire selection process, inasmuch as he could not secure his position among the top 06 un-reserved category candidates. The last selected candidates secured 62.79 % marks and the petitioner secured only 58.01 % marks in the selection process.

7. Learned counsel further submits that the petitioner has tried to mislead, inasmuch as it has been argued on behalf of the petitioner that he had worked as Head Assistant in the Office of DRI-cum-Dean PGS in the University Headquarter but no such post is sanctioned for any of the Office of the University Headquarters and the petitioner was originally appointed as Field Overseer. Insofar as selection process of Advertisement no. 08 of 2013 is concerned, it has been submitted that as per the provisions of the Statute, a Screening Committee was constituted for scrutiny of the candidates as per the eligibility conditions prescribed in the advertisement. The Committee scrutinized strictly and found only 05 candidates eligible who were working on the post of Assistant in relevant pay-scale.

Since the petitioner had not worked on the post of Assistant in the relevant pay-scale, his candidature was not



considered by the Screening Committee for participating in the selection process, accordingly the petitioner was not called for interview, pursuant to Advertisement no. 08 of 2013. Again, 04 posts were advertised vide Advertisement no. 02 of 2014 but it was with amended eligibility criteria with specific mention of experience requirement i.e. 05 years experience as Assistant or equivalent post in the scale of PB-2, 9300-34800+ GP-4200 in Administration/ Accounts/ Audit/ Establishment work in Government/ Semi Government organization or in Public Sector Undertaking.

Again, as per the provisions of the Statute, Screening Committee was constituted for screening of the candidates as per the eligibility conditions of Advertisement No. 02/2014 and the Committee found only 12 candidates eligible and accordingly, they were called for interview. The Screening Committee did not find the petitioner eligible, as per the terms of the advertisement, as the petitioner was found working on the post of Field Overseer in pay- scale of Rs. 5200-20200, grade pay- 2400, which is not equivalent to the post of Assistant carrying pay-scale of 9300-34800, grade pay 4200. Accordingly, the petitioner was not called for interview under the Advertisement no. 02 of 2014.



8. Learned counsel next submits that the procedure for selection under Advertisement no. 11 of 2011 has already been completed in the year 2012, however new advertisements were published in the year 2013, 2014 and 2015, in which the petitioner was not found eligible to participate, as per the terms of the advertisement. Any candidate of Advertisement no. 11 of 2011 cannot be called for interview and cannot be selected under the different and subsequent advertisements on the basis of his performance in the previous advertisement, which has already been completed. The validity of panel recommended by the Selection Committee in the year 2012, pursuant to Advertisement no. 11 of 2011, has already ended after one year i.e. in 2013, however petitioner failed to secure qualifying marks in the selection.

9. I have heard learned counsel for the parties and have gone through the relevant materials on record. It is the specific case of the respondents that petitioner's candidature was considered for appointment under Advertisement no. 11 of 2011, in which petitioner participated but failed to secure marks, required for selection. The last appointed candidate secured 62.79 %, whereas the petitioner secured only 58.01 %. Any candidate, who was called for selection on a particular post



under previous advertisement, as per the terms of the advertisement, does not get vested right that he would be called for the post, advertised in future advertisements and recruitment process, when the eligibility conditions for appointment have changed, as per the policy decision of the University and the candidate does not meet the eligibility criteria. The University has taken the stand that in subsequent advertisement, the Screening Committee did not find the candidature of the petitioner valid, as per the terms of the advertisement and accordingly, he was not called for interview in the subsequent advertisements.

10. Having regard to the facts and circumstances of the case and considering the aforesaid discussions, I do not find any merit in the present writ application, accordingly, the same is dismissed.

(Anil Kumar Sinha, J)

rinkee/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2024
Transmission Date	NA

