

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15933 of 2023

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Mini Agarwal Wife of Sandeep Kumar Garg, Resident of 560 Vikash Colony,
Gulaothi, Bulandsahar (Uttar pradesh)

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Science of Science and Technology,
Govt. of Bihar, Patna.
3. The Diretor, Department of Science of Science and Technology, Govt. of
Bihar, Patna.
4. The Bihar Public Service Commission, Patna through its Secreary.
5. The Chairman, Bihar Public Service Comission, Patna.
6. The Secretary, Bihar Public Service Comission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Majid Mahboob Khan, Adv.
For the State	:	Mr.Kameshwar Pd. Gupta, G.P.-10
		Mr. Anwar Karim, A.C. to G.P.-10
For the B.P.S.C.	:	Ms. Parul Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date : 29-05-2024

Heard learned counsel for the petitioner, learned counsel for
the State and learned counsel for the B.P.S.C.

2. By filing the present writ application, the petitioner has prayed
for the following reliefs:

- i) For issuance of writ/wirts, order/orders,
direction/directions commanding the respondent
to treat the petitioner's qualification i.e. B.Sc.
equivalent to B.Sc. (Hons.), in the light of
notification bearing F5-1/2013 (CPP-II)
published in Gazette of India dated 5th July,
2014 by the University Grant Commission.*
- ii) For issuance of writ/writs, order/orders,
direction/directions commanding the respondent
authorities to award 5% marks obtained by the
petitioner in B.Sc. And thereafter publish result.*



iii) For issuance of any other appropriate writ/writs, order/order, direction/directions for which the petitioner shall be found entitled under the facts and circumstances.

3. Learned counsel for the petitioner submits that the petitioner has applied for the post of Assistant Professor in Govt. Engineering Colleges, against the vacancy advertised by the Bihar Public Service Commission, vide advertisement no. 63/2020 (Annexure-P/1 of writ petition). After scrutiny, the petitioner was found eligible and was allowed to appear in written (objective) competitive examination and accordingly, the concerned Authority issued Admit Card of the petitioner bearing Roll No. 630278. Thereafter, the petitioner appeared in the examination conducted by the Bihar Public service Commission and after examination, the Commission published result on 25.03.2023 in which the petitioner was declared successful for interview (Annexure-P/4 of writ petition), which was scheduled to be conducted on 12.04.2023. This petitioner has appeared before the Interview Board on the scheduled date and time along with relevant documents.

4. Learned counsel further submits that after interview as well as verification of the documents, the petitioner came to know that the Commission has uploaded the provisional marks on the website. Accordingly, she downloaded the provisional marks from the B.P.S.C. portal on 10.07.2023 in which she was granted "0" marks for



the graduation percentage and in the remarks column it was stated as “**No B.Sc. Physics (Hons.)**” (Annexure-P/6 of writ petition), whereas she is eligible for allotment of marks for her graduate percentage i.e. 5% of her graduation percentage. Subsequently, she sought some information from Department of Science and Technology & B.P.S.C. under RTI on 11.07.2023 (Annexure-P/7 of writ petition).

5. Learned counsel further submits that the petitioner filed representation before the Secretary, Bihar Public Service Commission and requested to review the relevant documentation and policies to ensure a fair assessment of her qualifications and consider her B.Sc.(Physics) degree as valid, but nothing was done in her favour.

6. It is further submitted that vide memo no. 1621 dated 13.07.2021, the Joint Secretary, Department of Science and Technology, Govt. of Bihar informed the Secretary, B.P.S.C. that the Bihar Engineering Education Service Rules, 2020 deals with regard to the weightage scheme and the same is contained in Appendix (Table 2) which is as follows:-

Cadre Post Assistant Professor

Maximum 05 (5% of percentage marks obtained in B.Tech./B.E./ B.S./B.Sc.(Eng.)/ B.Sc. (Hons.)/B.A. (Hons.).

And this rule does not provide any marks for B.Sc. (without



Hons.)/B.A.(without Hons.) and accordingly requested to go further in the light of notification no. 565 dated 13.02.2020. (Annexure-P/9)

7. It is further submitted that the Bihar Engineering Education Service Rule, 2020 as provided in Table-2 (Appendix-1) for providing weightage scheme for cadre post of Assistant Professor, i.e., 20 marks for Academic Record and Research Performance, 40 marks for written examination, 15 marks for interview and further 25 marks for Assistant Professor engaged as contract basis. (Annexure-P/10 of writ petition).

8. Learned counsel further submits that from perusal of Table-I, which provides for qualification and experiences for direct appointment in Bihar Engineering Education Service, refers that for the post of Assistant Professor in Science and Technology, qualification for recruitment and promotion of faculty shall be as per the UGC notification no. F.5-1/2013 (CPP II) dated 5th July 2014. It is relevant to mention that the UGC notification no. F-5-1/2013(CPP II) dated 05.07.2014 deals about the specified degree and SI. no. 54 talks about degree like B.Sc./B.Sc. (Hons.). It means the degrees are treating in same fashion. As such, there should be treated to be one of the specified under graduate degree for direct recruitment for the post of Assistant Professor in Bihar Engineering College. (Annexure-P/11 of writ petition).



9. It is further submitted that UGC notification no. F.1-2/2017/EC/PC) dated 18.07.2014 deals with the minimum qualification for appointment of Teacher and either as academic staff in the Universities and colleges and measures for the maintenance of standard in Higher Education. Table 3B of the said notification provides criteria for short listing of candidates for interview for the post of Assistant Professor in college. Perusal of this table does not talk about Hons. in any stream. Accordingly, to only treating the B.Sc. (Hons.) as graduation and not granting marks for B.Sc.(pass) in the head of academic record is illegal and contrary to the UGC Regulation as well as the Bihar Engineering Education Service Rules, 2020 (Annexure-P/12 of writ petition).

10. It is further submitted that earlier the Bihar Public Service Commission had issued advertisement no. 19/2020 for the appointment on the post of Lecturer in Govt. Polytechnic Colleges in which they provided scheme for weightage, where they provided 5 marks for graduation percentage irrespective of B.Sc. (Hons.)/B.Sc. (Annexure-P/13 of writ application). Hence, it is very unreasonable action on the part of respondent authorities for not awarding marks to the petitioner only on the ground that she does not have honours in physics and she is holding simple B.Sc. in Physics subject. They are taking shelter of notification issued by the UGC and further Bihar



Engineering Education Service Rules. But both these rules nowhere excludes the B.Sc. from awarding marks for academic records. Even the Bihar Engineering Education Service Rules provides that the UGC notification will be followed and UGC notification does not classify B.Sc. (Hons.)/ B.Sc. rather it talks only graduation. Further UGC notification dated 05.07.2014 deals about the specified degree. Entry 54 reflects B.Sc./B.Sc.(Hons.) as specified for graduation in Science stream.

11. It is further submitted that the Bihar Public Service Commission are applying different yardsticks for awarding marks for graduation percentage. It provides 5% of B.Sc. percentage in appointment of Lecturer and denying in recruitment of Assistant Professor in Engineering Colleges.

12. The petitioner has already filed representation before the concerned Authorities and requested to review their marking pattern and award marks for her B.Sc., but till date, no action has been taken to that effect.

13. A counter affidavit on behalf of respondent nos. 4 to 6 has been filed in which it is stated that the State Government, vide Notification contained in Memo No. 565 dated 13.02.2020, framed the Bihar Engineering Education Service Rules, 2020. Table-1 of the Appendix-1 of the said Rules prescribes the qualification and Table-2



prescribes the Weightage Scheme for Direct Appointment to the post of Assistant Professor in Bihar Engineering Education Service. The same read as under:

For Engineering & Technology: BE/B.Tech/B.S./B.Sc.(Engg.) and M.E./M.Tech/ M.|S. or Integrated M.Tech in relevant branch with First Class or equivalent in any one of the degrees.

For Humanities and Science: The qualification for recruitment and promotion of faculty in the discipline of basic Sciences, Social Science and Humanities shall be as per the UGC Notification No. F.1-2/2017(EC/PS) dated 18.07.2018 (Annexure-P/12 of writ petition) and the UGC guidelines issued from time to time.

Total Weightages 100				
Cadre Post	Academic record and Research performance (weightage– 20 marks)	Evaluation of domain knowledge and teaching skills through written examination (weightage-40 marks)	Interview (weightage– 15 marks)	For Assistant Professor engaged on contract basis (weightage-25 marks)
Assistant Professor	(a) Maximum 10(10% of percentage marks obtained in M.Tech/ME/MS /M.Sc./ M.A. in relevant branch subject. (b) Maximum 05 (5% of percentage marks obtained in B.Tech/BE/ BS/B.Sc. (Engg.)/B.Sc.	(a) For Science and Humanities. The syllabus of the core subject of National Eligibility Test (NET) conducted by the University Grants Commission on (UGC) will be		Weightage of Candidate working on contract basis on the post of Assistant Professor under Department of Science and Technology and possessing minimum eligibility criteria @ 05 marks per year (Maximum 25



	(Hons.)B.A. (Hons.) (c) Ph.D.- 05 marks	applicable. (b) For Engineering stream: The syllabus of Graduate Aptitude Test Engineering (GATE) will be applicable.		marks)
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14. Accordingly, the Advertisement no. 63/2020 (Annexure-P/1) has been published by the BPSC as per the requisition sent by the respondent Department for regular appointment of 59 posts of Assistant Professor in Physics as per the provisions of the Bihar Engineering Education Service Rules, 2020 as detailed in Table-1 and Table-2 of the Appendix-1. At Paragraph No. 3 of the said Advertisement, the educational qualification has been provided and at Paragraph No. 5, a table containing the Weightage Scheme has been provided which is in consonance with the Bihar Engineering Education Service, Rules, 2020. It is pertinent to state here that the requisite educational qualification which is in issue in the present writ petition should be B.Sc. (Hons.) in accordance with the Advertisement No. 63/2020 and not simply B.Sc. in a particular subject.

15. Having heard learned counsels for the parties, in our opinion, the writ application deserves to be dismissed as the petitioner has done B.Sc. (Physics), whereas the weightage scheme, as provided in



Table-2 of the Appendix-1 of the Rules, clearly mentions and prescribes that weightage of maximum 5% shall be given in the recruitment of Assistant Professors to the candidates, who have done either B.Sc. (Hons.) or B.A. (Hons.) in the concerned subject and not simply B.Sc. or B.A. Therefore, the petitioner has not been given the benefit of maximum 5% at graduation level and zero mark has been awarded in accordance with the advertisement and the recruitment Rules. Hence, the case of the petitioner for treating the petitioner's qualification i.e. B.Sc. equivalent to B.Sc. (Hons.) cannot be considered.

16. In that view of the matter, I do not find any merit in the present writ application. Accordingly, this application stands dismissed.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	14.05.2024
Uploading Date	29.05.2024
Transmission Date	NA

