

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2482 of 2025

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Jay Prakash Verma S/o Late Baliram Prasad Verma, Resident of- Bans Kothi,
Digha, P.O. and P.S.- Digha, District- Patna. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Chairman, Bihar State University Service Commission Patna, 8th Floor, Bihar Vidyalaya Pariksha Samiti, Academic Bhawan, Budhmarg, Patna.
4. The Secretary, Bihar State University Service Commission Patna, 8th Floor, Bihar Vidyalaya Pariksha Samiti, Academic Bhawan, Budhmarg, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Advocate
For the State	:	Mr. Sanjay Kumar, AC to GP (7)
For the Resp. No.3&4	:	Mr. Binod Jee Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 18-02-2025 Heard Mr. Shashi Bhushan Singh, learned counsel

appearing on behalf of the petitioner; Mr. Sanjay Kumar,

learned AC to GP (7) appearing on behalf of the State and Mr.

Binod Jee Verma, learned counsel appearing on behalf of the

respondent nos.3 and 4.

2. The petitioner in paragraph no. 1 of the present writ

petition has sought, *inter alia*, the following relief(s), which is

reproduced hereinafter:-

*“(i) For issuance of an appropriate writ in the nature of
Certiorari for quashing the part of letter no. 1694 dated
08.10.2024 by which the Commission has provided an
information without assigning any reason that teaching
experience has not considered for preparing merit list for
appointment to the post of Assistant Professor in the subject of
'Mathematics' whereas the experience certificate of the
petitioner is duly counter signed which is in consonance with
clause 7.2 of the Advertisement no AP MATH/23/20-21.*

(ii) For issuance of an appropriate writ in the nature of



Mandamus, Commanding and directing the respondents to consider the experience certificate of the petitioner which is inconsonance with clause 7.2 as per Advertisement No. AP MATH/23/20-21 for appointment to the post of Assistant Professor in the subject of 'Mathematics' which has been denied by the Bihar State University Service Commission Patna (hereinafter called as Commission) and for a direction to consider for appointment of the petitioner as Assistant Professor on two vacant posts out of 85, as the petitioner has obtained 80 marks and after adding 10 marks of experience gained by the petitioner in J.D. Women's College, Patna, the total merit marks comes to 90 marks whereas cut off marks is 89, though after brilliant academic career in Patna university (Graduation + Post graduation) only two marks have given in interview, particularly when the petitioner has replied most of the question during interview.

(iii) For a direction to the respondent Commission to produce merit list giving details of marks of the selected candidates, so that the petitioner and other could ascertain the actual position with regard to distribution of marks in interview and consideration of experience certificate other than conditions laid down in the advertisement.

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

3. Learned counsel appearing on behalf of the petitioner submitted that pursuant to advertisement for appointment to the post of Assistant Professor in the subject of Mathematics, the petitioner had applied and he obtained 78 marks in Academic Performance Index (A P I) and 2 marks in interview. The grievance of the petitioner is that his experience has not been taken into account, in which he has been allotted zero marks out of 10 marks, inspite of the fact that the petitioner has furnished work experience certificate, duly issued by the Principal of the J.D. Women's College, Patna and counter signed by the Registrar of the Magadh University, which has been brought on record by way of Annexure- P 3. Learned counsel



informs that the said certificate gives information that the petitioner had worked from 02.04.2003 to 31.05.2013 with intermittent break. He further submitted that based on such information, the petitioner's future prospect will also be affected in view of zero mark allotted for work experience. The petitioner has been discriminated with the last candidate. Learned counsel submitted that the petitioner has more experience than the last candidate, however, he admitted that he has not impleaded the last candidate as party respondent in the present writ petition and only sought for interference with letter no.1694 dated 08.10.2024 (Annexure P- 7), by which the petitioner has been provided information, without assigning any reason, that his teaching experience has not been considered for preparing merit list for appointment to the post of Assistant Professor. Learned counsel further submitted that proper calculation has not been done in respect of allotting marks in accordance with clause 7.2 of advertisement No.AP MATH/23/20-21. Learned counsel has placed reliance upon a decision of the Apex Court rendered in case of *Bangalore Development Authority & Others vs R. Hanumaiah & Others* reported in *2005 (12) SCC 508* and in the case of *H.P. Public Service Commission Vs. Mukesh Thakur & Anr.* reported in



AIR 2010 SC 2620.

4. Learned counsel appearing on behalf of the Bihar State University Service Commission (hereinafter referred to as the 'Commission') informs that the certificate relating to the work experience of the petitioner shows that though the petitioner worked in J.D. Women's College from 02.04.2003 to 31.05.2013, the certificate is specific that the same was with intermittent break and as such, in absence of clear information relating to his continuous work performance in the said college, he has been allotted zero mark. Learned counsel further submitted that otherwise also, the petitioner has very meager chance to compete with the last candidate, who was allotted 89 marks and there is large difference of Academic Performance Index between the petitioner and the last candidate, and only in case of full 10 marks, the petitioner can compete with the last candidate. It has further been informed that the selection process has been completed and now at this stage, no interference is required with the selection process.

5. Heard the parties.

6. I find that in case of **Mukesh Thakur (Supra)**, the Apex Court in paragraph no.25 taking into consideration the law laid down in case of **Pramod Kumar Srivastava Vs.**



Chairman, Bihar Public Service Commission, Patna & Ors.

reported in **AIR 2004 SC 4116**, has held as under:

"25. Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for re- evaluation of his answer-book. There is a provision for scrutiny only wherein the answer-books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly on the first cover page of the answer-book. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant in the General Science paper. In the absence of any provision for re-evaluation of answer-books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for re-evaluation of his marks."

7. I find that total numbers of vacancy were 85 and the petitioner applied for the post of Assistant Professor in the subject of Mathematics and the last candidate has obtained 89 marks and as per the information, it is admitted by the parties that the petitioner has obtained 80 marks and in absence of any information regarding the work experience of the last candidate and the information, which is relating to the petitioner, given by the Principal of the said college, it appears that the petitioner had only performed his duty in intermittent manner and information to that extent has not been given by the petitioner, claiming that any period during which he has continuously worked from 02.04.2003 to 31.05.2013. This Court will not enter into the controversy to hold that in all probability, the



petitioner can obtain 10 marks to out-beat the last candidate, who has obtained 89 marks and if 10 marks is granted to the petitioner, he will become more eligible than the last candidate. This Court directs the Commission to re-evaluate the marks obtained by the petitioner on the basis of his experience. Law in this regard has been reiterated by the Apex Court in the case of *Ran Vijay Singh v. State of Uttar Pradesh*, reported in *(2018)2SCC 357*, wherein the Apex Court has also cautioned that complete hands-off attitude, denying any interference, should be avoided, however, at the same time, it has been held in the said judgment that re-evaluation and scrutiny is not a matter of right. In above view, this Court don't find in any manner that the letter no.1694 dated 08.10.2024 is required to be interfered with, when the power of re-evaluation is not inherent with the Commission.

8. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J.)

Sanjay/-
Ashishsingh/-

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