

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20216 of 2016

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Dr. Sanjay Tiwari Son of Late G.N. Tiwari, Senior Scientist - Cum - Associate
Professor, Department of Soil Science,

... .. Petitioner/s

Versus

1. The Dr. Rajendra Prasad Central Agriculture University and Ors
2. The Vice Chancellor, Dr. Rajendra Prasad Central Agricultural University,
Pusa, Samastipur
3. The Registrar, Dr. Rajendra Prasad Central Agricultural University, Pusa,
Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sri Niwas Jha
For the Respondent/s	:	Mr.Chandra Mohan Singh
For the University	:	Mr. Piyush Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

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| 5 | 19-08-2025 | <ol style="list-style-type: none">1. The present writ application has been filed for a direction

to the respondents to consider the claim of the petitioner

for promotion to the post of Chief Scientist -cum-

University Professor (Soil Science) with all consequential

benefits and also for award of cost of the proceedings.2. The factual matrix of the case is that the petitioner was

initially appointed as Junior Scientist -cum- Assistant

Professor in the Directorate of Extension, Rajendra

Agricultural University, in the year 1986 and was

subsequently promoted to the post of Associate Professor

-cum- Senior Scientist (Soil Science) with effect from

27.07.1998. |
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3. The University introduced the Career Advancement Scheme by Notification No. 188, dated 14.10.2003, effective from 27.07.1998, duly incorporated in the University Statutes under Clause 14.1. Under the said Career Advancement Scheme, the University was to consider the cases of eligible teachers/scientists in a year.
4. Pursuant to the Career Advancement Scheme, the petitioner applied for promotion to the post of University Professor -cum- Chief Scientist and appeared in the interview held on 28.07.2009. The petitioner was awarded 7.39 marks under the head, Academic Qualification, resulting in his total score being 64.59 marks, which was less than the minimum qualifying marks of 66. Accordingly, the petitioner was not found eligible for promotion.
5. Learned Counsel for the petitioner submits that the petitioner had earlier appeared in the interview for promotion to the post of Associate Professor -cum- Senior Scientist, held on 29.11.2004 and the petitioner was awarded 10 marks under Academic Qualification. Therefore, the reduction of marks to 7.39 in 2009 is arbitrary and discriminatory.



6. Being aggrieved by the denial of his promotion, the petitioner filed several representations before the Vice Chancellor and Chancellor, but no action has been taken.
7. Th petitioner has relied on the order of the Chancellor of the Universities, dated 14.07.2016, arguing that in the case of similarly situated person, namely, Dr. Jeevendra Pratap Singh, a direction was issued by the Chancellor of the Universities for rectification of marks awarded to Dr. Jeevendra Pratap Singh under Academic Qualification.
8. Learned Counsel further submits that no statutory change was made by the Board of Management between 2004 and 2009 with respect to the manner of awarding marks under the head Academic Qualification.
9. On the other hand, learned Counsel for the respondents, referring to the counter affidavit, submits that the Career Advancement Scheme, introduced with effect from 27.07.1998, was duly amended in the 59th meeting of the Board of Management, held on 30.12.2002, and the amendment was assented to by the Chancellor of the Universities on 09.10.2003 and the same was notified on 14.10.2003.
10. Under the earlier system for promotion, marks, under



Academic Qualification, were awarded on the basis of divisions secured in different examinations, and under the said system, the petitioner had secured full 10 marks in 2004. However, subsequently, the University adopted a percentage based formula, i.e., actual percentage obtained in each examination, multiplied by the prescribed weightage. Under this system, the petitioner scored 7.39 out of 10 marks in the year 2009. The petitioner could secure only 64.59 marks in total, which was below the prescribed benchmark of 66 marks. Hence. The non-selection of the petitioner for his promotion was strictly on merit and not on account of any arbitrary action.

11. Learned Counsel further submits that the case of the petitioner is distinguishable from the case of Dr. Jeevendra Pratap Singh. The grievance of Dr. Jeevendra Pratap Singh was related to the Career Advancement Scheme interview held in the year 2014; whereas, the grievance of the petitioner relates to the Career Advancement Scheme interview held in the year 2009.
12. On the direction of Chancellor of the Universities, a High Level Committee was constituted to review all cases of promotion under Career Advancement Scheme 2014-15



and even, in that review, the claim of the petitioner was considered, but he failed to secure the minimum qualifying marks.

13. The petitioner again appeared in Career Advancement Scheme 2015, where he secured only 58.54 marks, which was much below the prescribed benchmark. Thus, his repeated failure in two successive interview held under Career Advancement Scheme clearly establishes that his non-selection was purely on the basis of objective assessment and not on account of any illegality or arbitrariness.
14. It has lastly been argued by learned Counsel that having voluntarily participated in the selection process under the new criteria for distribution of marks under academic qualification, the petitioner cannot, now, be permitted to challenge the rules of the game after having disqualified.
15. I have heard learned Counsel for the parties concerned and have gone through the materials available on record.
16. This Court finds that the grievance of the petitioner relates to award of marks under Academic Qualification in the interview held in the year 2009. He compared the allotment of marks awarded to him in the interview held



in the year 2009 with the marks awarded to him in the interview held in the year 2004 at the time of his promotion on the post of Associate Professor.

17. The method of awarding marks under Academic Qualification changed in the year 2009 and a percentage based formula was introduced by the University in place of earlier division based method. Due to modification of the criteria for award of marks for Academic qualification, the petitioner got 7.39 marks for his academic qualification in the year 2009.

18. The petitioner again appeared in the interview for promotion under the Career Advancement Scheme in the year 2015 and based on the criteria for evaluation of marks under Academic Qualification adopted by the University in the year 2009, the candidature of the petitioner for his promotion was considered and this time also, he failed to secure the minimum qualifying marks.

19. After being unsuccessful in the year 2015, the petitioner filed the present writ application challenging the criteria adopted by the University for award of marks in the year 2009, by which the petitioner and other candidates were evaluated.



20. In the case of **Anupal Singh v. State of UP**, reported in **(2020) 2 SCC 173**, the Supreme Court has held that it is a well settled principle of law that a candidate who has participated in a selection process with full knowledge of the applicable criteria cannot subsequently question those criteria merely because the outcome was not favourable.
21. In the present case, the petitioner consciously participated in the interview in the year 2009 and was declared unsuccessful. He did not challenge the criteria fixed by the University in the year 2009 and with the same criteria, he again appeared in the interview held in the year 2015 and this time also, the outcome was not in his favour.
22. Once a candidate participates in a process without any objection, he cannot be allowed to turn around and challenge the same.
23. Considering the aforesaid discussion, I do not find any merit in this writ application.
24. This writ application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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