

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.226 of 2025**

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Kanhaiya Kumar S/o- Shyam Bihari Singh R/o- Village- Pokharpur, P.O.-  
Pawapuri, District- Nalanda, Bihar- 803115.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Labor Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Labor Resources Department, Government of Bihar, Patna.
3. The Bihar Technical Service Commission, through its Chairman, Government of Bihar, Patna.
4. The Chairman, Bihar Technical Service Commission, Government of Bihar, Patna, Bihar.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|------------------------------------------|
| For the Petitioner/s | : | Mrs. Mira Kumari, Advocate               |
| For the Respondent/s | : | Mr. Subhash Prasad Singh, GA-3           |
|                      |   | Mr. Indeshwari Prasad Mandal, AC to GA-3 |
| For the B.T.S.C.     | : | Mr. Nikesh Kumar, Advocate               |

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

2      16-01-2025                      Heard Mrs. Mira Kumari, learned Advocate for the  
  
petitioner and Mr. Nikesh Kumar, learned Advocate for the  
  
Bihar Technical Service Commission. Mr. Indeshwari Prasad  
  
Mandal, learned Advocate for the State is also present.

2. The petitioner has filed the present writ petition for  
  
the following reliefs :-

*“I. For issuance of appropriate writ/writs or order/orders or direction/directions to the respondent authorities to select the Petitioner for the post of Trade instructor (Group 10); on the ground that the Petitioner has*



*fulfilled all the terms and conditions as he has qualified the CITS course work and also has five years of work experience; except that he has got only marks 34.28 in the examination less than cut-of marks i.e. 40.*

*II. For issuance of appropriate in nature of Mandamus and issue direction to the concerned authorities to consider the marks secured in CITS course work as additional eligibility criteria on the ground that such vacancy is not a regular vacancy and in fact the instant vacancy has been introduced after almost 12 years and the Petitioner and similar situated persons face trouble in securing employment;*

*III. That the present writ application has been filed to pass such other order/orders as your lordships may deem fit and proper in the facts and circumstances of the case;”*

3. In terms of the advertisement for selection of Trade Instructor, the petitioner has filed his application under Economically Backward Category. The examination was conducted on 04.01.2024, however the petitioner could not secure the qualifying marks. Learned Advocate for the petitioner contended that the petitioner secured 77.22% marks in CITS, which may be treated as additional eligibility criteria; moreover, the petitioner fulfills all the terms and condition and also having



five years of work experience; and the vacancy is not a regular vacancy.

4. The petitioner urged before this Court that despite the petitioner having fulfilled all the terms and condition and qualified the CITS course work, his case has not been considered only on account of the fact that the petitioner has secured 34.28 marks in the examination, less than the cut-off marks of 40, by ignoring the relevant provisions of the Bihar Industrial Training Instructor Cadre Rule, 2018.

5. Learned Advocate for the Bihar Technical Service Commission primarily contended that the issue as has been summarily raised before this Court by filing the writ petition has taken before the learned coordinate Bench of this Court, wherein the Court while rejecting the claim of the petitioner in CWJC No. 13951 of 2024 vide its order dated 19.09.2024, has held that the minimum qualifying marks is the bench mark for elimination of candidature and it can only mean that the candidates, who obtain minimum marks as contained in the terms and conditions of clause 10 of the advertisement, then only can qualify for the second phase and whereupon upto 25 marks weightage will be added as per their experience, who have rendered their service as contractual employee.



6. It is the admitted fact that the petitioner has never qualified the first stage and thus in terms of the advertisement, the petitioner cannot get any chance to appear in the second phase of examination.

7. This Court finds that there is neither any challenge to the relevant prescription of the advertisement nor the selected candidates have been made party respondents, apart from the similar issue already set at rest by a learned co-ordinate Bench, negating the identical relief sought for by identically situated persons. All the more, it is admitted position that the petitioner has secured only 34.28 marks against the minimum cut-off marks of 40.

8. This Court does not find any merit in the writ petition, accordingly the writ petition stands dismissed.

**(Harish Kumar, J)**

supratim/-

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