

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3135 of 2022

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Arun Kumar Son of Sri Chandra Shekhar Choudhary, resident of Rupauli Ghat, Ward No. 3, P.S. - Bishanpur, District- Darbhanga, presently residing at Teachers Colony PUSA, near Green Wood Public School, PUSA, P.S. PUSA, District- Samastipur.

... .. Petitioner/s

Versus

1. Dr. Rajendra Prasad Central Agricultural University, PUSA, Samastipur through its Registrar.
2. The Vice Chancellor, Dr. Rajendra Prasad Central Agricultural University, PUSA, Samastipur.
3. The Registrar, Dr. Rajendra Prasad Central Agricultural University, PUSA, Samastipur.
4. The Deputy Registrar, Recruitment, Dr. Rajendra Prasad Central Agricultural University, PUSA, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Advocate
For the Respondent/s : Mr. Chandra Mohan Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
CAV JUDGMENT

Date : 15-05-2026

Heard the parties.

2. The present writ petition has been filed for a direction upon the respondents to appoint the petitioner as a skilled staff in Dr. Rajendra Prasad Central Agricultural University, Pusa against the seat/post available for PwD (person with disabilities), ex-service man as per the norms/rules act of the Government of India against Advertisement No. 03/2019.

FACTS OF THE CASE

3. The brief facts giving rise to the present writ petition are that the petitioner while working as Sepoy in Indian Army got



injured during duty period at Udhampur and became orthopedically handicapped, therefore, he was discharged from the Army on 09.05.2005. The extent of deformity of the petitioner was/is 60% as would appear from the Certificate No. 778/2009 dated 16.03.2009 issued under the signature of the Orthopedic Surgeon, Office of the Civil Surgeon Cum Chief Medical Officer, Samastipur. An advertisement was issued vide advertisement no. 03/2019 dated 28.05.2019, whereby online applications were invited for recruitment of skilled supporting staff in Dr. Rajendra Prasad Central Agricultural University, Pusa (hereinafter referred to as 'the RAU'). The total number of posts advertised were 100 and essential education qualification for the post was matriculation or equivalent from recognized Board. The advertisement further provided that the number of post for persons with disabilities (PWD) and Ex-servicemen would be as per the Government of India norms and the persons with less than 40% disabilities would not be considered against the post reserved for disabled persons. The petitioner, being eligible, filed an application for his appointment as a skilled supporting staff against advertisement number 03/2019 under the PWD (persons with disabilities)/Ex-Servicemen quota, as per the norms/act of the Government of India. Admit card was issued to the petitioner for appearing in the



physical test, however he was exempted from the physical test, being in the PWD category. The petitioner appeared in the written examination conducted by the University and obtained 79 marks in the written examination. Further, 14.55 marks was given to the petitioner for his academic qualification. The petitioner being PWD candidate having 60% disability, was expecting his appointment against the posts reserved for disabled person for ex-serviceman, but to the surprise of the petitioner, he was not appointed on the post advertised by the University. Upon enquiry, the petitioner came to know that no disabled/ex-serviceman has been appointed against the posts and also came to know that although 100 posts were advertised, but appointments have been made for 130 posts. Immediately thereafter, the petitioner filed an application on 27.01.2022, before the Vice Chancellor of the University, bringing to his notice the illegality committed by the University in the matter of appointment, by not appointing the persons with disabilities and requested for his appointment on the said post, which ought to have been reserved for PWD/ex-servicemen.

SUBMISSION ON BEHALF OF THE PETITIONER

4. The learned counsel for the petitioner submits that Section 33 of the Persons with Disabilities Act (Equal



Opportunities, Protection of Rights and Full Participation) Act, 1995 provides for not less than 3% reservation of posts for disabled persons in all the departments, public sector undertakings, Government Companies and similarly there is a provision for reservation of posts for the ex-serviceman in the appointment in Government Departments and its undertakings. He submits that since 130 persons have been appointed/selected, therefore, as per the Act, at least 04 posts ought to have been reserved for the PWD candidates. He further submits that he came to know that one person in the ex-serviceman category and two persons (one unreserved and one OBC) under the PWD quota were selected, out of the total 130 candidates against the advertisement, but it cannot be ascertained as to which particular person has been selected against which particular category. The advertisement prescribed the number of posts for PWD and ex-servicemen shall be as per the Government of India norms, however the University selected only one person against 10% quota of Ex-servicemen category and two persons against 4 % quota of P.W.D. category. He submits that vide letter dated 19.02.2021 a committee was constituted for preparation of final merit list for the post of skilled supporting staff, pursuant to advertisement no. 03 of 2019 and advertisement no. 02 of 2020. The committee in its meeting held on 20.02.2021



decided that in case of non-availability of P.W.D. and ex-servicemen candidates in the merit list, 30 grace marks will be added in the written examination score of the candidates of PWD/ex-servicemen category, who have secured less than the cut off marks. This was done only for candidates, who have secured at least 112.5 marks i.e. 45% marks in the written examination. It was further decided that after adding 30 grace marks to the candidates of the said category, who have secured at least 112.5 marks, only the top scorer of ex-servicemen or PWD will be accommodated in each category of unreserved, OBC, SC, ST and EWS category, to fill the sanctioned positions, ensuring the representation of respective category.

5. The learned counsel for the petitioner further submits that while issuing advertisement no. 03 of 2019, which clearly stated that the number of posts of PWD and ex-serviceman shall be filled as per the Government of India norms and therefore, the decision of the committee, constituted by the University, cannot have overriding effect on the Act and policy of the Government of India. The respondent university cannot change the rule of the game mid way of the selection process.

6. The learned counsel for the petitioner refers to and relies on a judgment of the Hon'ble Supreme Court of India in



Civil Appeal No. 2634 of 2013 (**Tej Prakash Pathak & Ors. Versus Rajasthan High Court & Ors.**), whereby a Full Bench of the Hon'ble Supreme Court of India vide its judgment dated 07.11.2024 in paragraph no.42 has held as follows:-

“42. We, therefore, answer the reference in the following terms:

- (1) *Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up the vacancies;*
- (2) *Eligibility criteria for being placed in the Select List, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;*
- (3) *The decision in **K. Manjusree** (supra) lays down good law and is not in conflict with the decision in **Subash Chander Marwaha** (supra). **Subash Chander Marwaha** (supra) deals with the right to be appointed from the Select List whereas **K. Manjusree** (supra) deals with the right to be placed in the Select List. The two cases therefore deal with altogether different issues;*



- (4) *Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved.*
- (5) *Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the Rules are non-existent, or silent, administrative instructions may fill in the gaps;*
- (6) *Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list.”*

7. The learned counsel for the petitioner further submits that the advertisement does not provide for qualifying marks and there can be no improvement in the advertisement later on. Since no qualifying marks was there in the advertisement, it cannot be imposed later on, therefore, the respondent University was duty bound to select the petitioner for the post of skilled staff.

SUBMISSION ON BEHALF OF THE UNIVERSITY

8. Per contra, the learned counsel for the University submits that the persons with disabilities candidates were



exempted from qualifying the physical test, however the applicant in the ex-serviceman quota were allowed to appear, both in the qualifying physical test as well as the written test. Since, the petitioner had claimed relaxation in both ex-serviceman as well as PWD category, he was exempted from appearing in the qualifying physical test and was allowed to appear only in the written examination. The candidates of PWD category were adjudged on the basis of academic qualification score (Maximum 25 marks) and written examination score having full marks of 300 and accordingly, the merit list was prepared. The selection committee prepared, the merit list of all the ex-servicemen and PWD candidates according to the reservation categories of candidates i.e. unreserved, OBC, SC, ST and EWS. However, none of the PWD candidates figured in the merit list. In view of the non-qualifying of ex-servicemen and PWD candidates, the University on humanitarian grounds decided to award grace marks of 30 (i.e. 10% of full marks) to those candidates who have secured at least 45 % marks out 300 marks i.e. 112.50 marks, to decide the position in the merit list. After adding 30 grace marks in the category wise benchmark of the PWD candidates of Category-a and c (a=blindness and low vision and C=locomotors disability including cerebral palsy, leprosy cured, dwarfism, acid attack



victims and muscular dystrophy). The three candidates (one ex-serviceman and two PWD) were recommended by the selection committee. Accordingly, one ex-serviceman and two P.W.D. candidates, namely, Rajeev Kumar Mishra (ex-sericeman), Shiv Kumar (UR Category) and Muntun Kumar (OBC Category) were offered appointment letter and they joined the University. Rest of the PWD category candidates did not qualify, even after awarding grace marks to them. Since, the petitioner failed to obtained the minimum qualifying marks, hence his name was not recommended for appointment, neither in ex-serviceman nor in PWD quota. The petitioner had obtained total 93.50 marks against the minimum qualifying marks of 112.50, therefore his name was not recommended in either of the categories.

9. The learned counsel for the respondent-University further submits that only two candidates in PWD quota were able to score minimum qualifying marks of 112.50 and accordingly, they were offered appointment letter. Rest two post of PWD quota could not be filled up due to non-qualifying of candidates in the written examination test.

10. The learned counsel for the respondent-University further submits that after advertisement, a 6 Member Committee was constituted by the competent authority vide officer order dated



19.02.2021, for preparation of final merit list for the post of Skilled Supporting Staff against advertisement No. 03 of 2019. The said committee after due deliberation and in accordance with the prescribed rules, guidelines and criteria, prepared the final merit list for the said post. The entire selection process, including preparation of merit list, was carried out in a fair, transparent and lawful manner by the committee, therefore, no illegality or irregularity has been committed by the respondent University at any time. The respondent University duly considered the candidature of the petitioner under both the aforesaid quotas, in accordance with the applicable rules and criteria, governing the selection process. So far as the PWD category is concerned, such candidates were exempted from appearing in the physical test. Instead, their merit was assessed on the basis of academic qualification and written examination. The marking scheme for academic qualification was also fixed which is 0.25 X the high school marks + 10 marks for 10+2 qualification with maximum 25 marks + 3 marks for each completed years of experience, with maximum of 25 marks. The written examination carried 250 marks, marking the total aggregate marks to 300. He further submits that even after considering the candidates under both quotas, certain candidates could not qualify. However, on



humanitarian grounds, as per the DOPT norms, the University granted 30 marks i.e. 10 % of the total marks. Even after awarding the grace marks, only 3 candidates were able to qualify, while the remaining candidates, including the petitioner, failed to meet the minimum qualifying marks. The minimum qualifying marks were fixed at 45 % of the written examination, which comprised 100 marks for Arithmetic Test, 50 marks for General Knowledge and 100 marks for language (Hindi).

11. The learned counsel for the University further submits that there was special instruction to the candidates/applicants which clearly stipulates that *"The prescribed essential qualification does not entitle a candidate to be called for Qualifying Test/Written Examination. For the said post, the University will hold Written Examinations and qualifying test, however marks obtained in qualifying test will not be considered for final selection as per govt. of India rules. The decision of the University in all matters relating to acceptance or rejection of an application, eligibility/suitability of the candidates, mode of selection, and criteria for selection etc. will be final and binding on the candidates. No inquiry or correspondence will be entertained in this regard."*

12. The learned counsel for the University further submits that from reading of the general instructions governing the recruitment process, the University reserves the right to withdraw



any advertised post under any category at any time without assigning any reason thereof. Any consequential vacancies arising during recruitment process may also be filled up from the available candidates and the number of positions is thus upon to change. Further, to offer the post at a level lower than that advertised, depending upon the qualifications, experience and performance of the candidate. To draw reserve panel(s) against the possible vacancies in future and to increase or decrease post(s) under any category or not to fill-up any of the advertised positions and to fix criteria for screening the applications so as to reduce the number of candidates to be called for qualifying tests/written tests. He submits that in view of the aforementioned facts and the established selection criteria, it is evident that the respondent University has acted strictly in accordance with the rules and guidelines governing the recruitment process. And there is no violation whatsoever of the order passed by this Hon'ble Court. The petitioner's non-selection is solely due to his failure to secure the minimum qualifying marks.

13. The learned counsel for the University finally submits that the entire selection process has been carried out as per the prescribed procedure and no candidate with lower marks, than the petitioner, has been selected/appointed. He submits that in the



advertised post special instructions/general instructions were there and the result has been prepared as per the decision taken by the committee in its meeting dated 20.02.2021, with regard to adding 30 grace marks to the eligible ex-serviceman and PWD applicant.

CONSIDERATION

14. Having heard the learned counsel for the parties and after going through the records, it appears that the selection committee devised its own mode of selection by fixing the criteria for selection to the post, which was made applicable in uniform manner, for all the applicants, in accordance with rules and guidelines governing the recruitment process. Besides the general/special instructions to the candidates regarding adoption of mode and criteria for selection etc. were also there in consonance with overall regulations, regulating the recruitment. The process, which was adopted by the university, cannot be said to be arbitrary, unfair and unreasonable and, since the petitioner having participated in the process, equally applicable to all the candidates and having not come under the zone of the consideration and thereby, not selected, cannot be said to have any legitimate ground to assail the same. Further, despite grace marks being given to all the candidates of PWD category/quota, the petitioner could obtain only 93.50 marks, against minimum qualifying marks of 112.50.



Moreover, having not impleaded any of the successful candidates, appointed to the post of Skilled Staff, as a party respondent in the present writ petition, the writ petition is even otherwise not maintainable.

15. Taking into consideration the entire aspect, this Court finds no merit in the writ petition and the same is accordingly dismissed, devoid of any merit.

16. Pending application, if any, shall also stands disposed of.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	
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