

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8478 of 2025

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Shital Kumari Wife of Amit Kumar Bishwas and Daughter of Ashok Singh @ Ashok Kumar, Resident of Village- Bageshwari Sthan, Gulabbagh, P.S- Purnea Sadar, District- Purnea, presently residing at village- Khairakhan, Ward No. 10, P.S- Forbesganj, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Labour Resources Department, Niyojan Bhawan, Baily Road, Patna.
2. Director, Directorate of Employment and Training, Labour Resources Department, Government of Bihar, Niyojan Bhawan, Baily Road, Patna.
3. Bihar Technical Service Commission, through its Chairman, Government of Bihar, 19-Harding Road, Patna.
4. Secretary-in-charge, Bihar Technical Service Commission, Government of Bihar, 19-Harding Road, Patna.
5. Deputy Secretary, Bihar Technical Service Commission, Government of Bihar, 19-Harding Road, Patna.
6. Joint Secretary, Bihar Technical Service Commission, Government of Bihar, 19-Harding Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Braj Kishore Singh, Advocate
For the State	:	Mr. Saroj Kr. Sharma, AC to AAG-3
For the BTSC	:	Mr. Nikesh, Advocate
		Mr. Praveen Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 20-04-2026 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Bihar Technical Service Commission.

2. Learned counsel for the petitioner submits that the present writ petition has been filed for setting aside letter No. 850 dated 12.03.2025, issued by the Joint Secretary of the Bihar Technical Service Commission, by which the certificate of the



petitioner relating to technical work experience acquired in the discharge of her duties as a Guest Instructor since 02.01.2017 at the Government Industrial Training Institute, Baisi (Purnea), has not been accepted. Further, the actual work experience of the petitioner as a welder in the recognized industrial unit, namely M/S Yadav Engineering Works, from 04.01.2013 to 11.01.2016, has also not been considered.

3. Counsel further submits that the petitioner is functioning as a Guest Instructor in the Welder Trade at Government Industrial Training Institute, Baisi, Purnea, under the Labour Resources Department of the respondent State. Counsel further submits that the petitioner was engaged as a Guest Instructor by the respondent State on 02.01.2017, after due scrutiny and approval of the required experience in the Welder Trade, a certificate was issued accordingly.

4. Counsel further submits that Advertisement No. 17/2023 was issued, pursuant to which the petitioner participated and filled up the form, but it was finally intimated to her that she had not been selected. This intimation was made vide letter No. 850 dated 12.03.2025. Counsel further submits that the said letter has been challenged before this Hon'ble Court.



5. Counsel further submits that Annexure-5 series are the documents which have not been considered by the Technical Service Commission. These include the experience certificate of the petitioner issued by M/S Yadav Engineering Works for the period from 04.01.2013 to 11.01.2016, and the letter bearing reference No. 173 dated 12.07.2024 issued by the Principal of Government I.T.I., Baisi, Purnea.

6. Counsel further submits that the petitioner possesses both working experience as well as teaching experience, but the Commission has rejected both. Therefore, it is submitted that interference may be made, the impugned letter be set aside, and the Commission be directed to accept the petitioner's appointment.

7. Learned counsel for the Bihar Technical Service Commission submits that the petitioner has participated in the advertisement, namely Advertisement No. 17 of 2023, for the post of Trade Instructor (Welder). Counsel further submits that experience has been mentioned in the column of eligibility. Counsel further submits that Clause 8 of the said advertisement was very specific, according to which a cut-off date was fixed, and all certificates relating to eligibility, experience, etc. had to be mentioned in the application form and must have been issued



prior to 03.08.2023.

8. Counsel further submits that the experience certificate issued by M/S Yadav Engineering Works is not applicable, as it has not been recognized by the Industrial Department. Counsel further submits that, so far as teaching experience is concerned, there are two aspects in the matter. Firstly, that it has not been issued prior to the cut-off date, i.e., 03.08.2023, rather, it has been issued on 12.07.2024, and in this regard, no mention was made in the form.

9. Counsel further submits that the question of contractual employees and guest employees has been decided by this Court by the Hon'ble Division Bench in the case of Golden Kumar and Ors. v. The State of Bihar & Ors., in CWJC No. 15816 of 2023 with other analogous cases, in which it has been stated in paragraph No. 28 that short-term/guest lecturers cannot be equated with contractual employees. Therefore, he submits that on both the grounds mentioned by the petitioner herein, the writ petition is not maintainable.

10. In light of the submissions made by the parties, it is necessary to quote the relevant paragraph of the said advertisement, which is scanned below:



ANNEXURE-P-2

(26)

बिहार सरकार
बिहार तकनीकी सेवा आयोग,
19, हाईवे रोड, पटना।

विज्ञापन सं०-17/2023

व्यवसाय अनुदेशक (Welder) के पद पर नियमित नियुक्ति हेतु विज्ञापन।

अग संलग्न विभाग, बिहार पटना, अनामि निदेशालय, नियोजन एवं प्रशिक्षण (नियोजन पत्र), बिहार राज्य के अधिनियमित शैक्षणिक प्रशिक्षण संस्थानों में व्यवसाय अनुदेशक (Welder) के पदों पर नियमित नियुक्ति हेतु प्रारंभिक प्रमाणिका के आलेख में सुयोग्य उम्मीदवारों से विहित प्रश्न में आयोग के वेबसाइट www.bihar-technicalseva.org पर दिनांक-04.07.2023 से दिनांक-03.08.2023 तक ऑनलाइन आवेदन आमंत्रित किये जाते हैं। अतिरिक्त विभाग द्वारा संश्लेष के अनुसार उपलब्ध कराये गये पदों की विवरणी निम्नलिखित रूप से है-

पदनाम	वेतनमान	योग्यता
व्यवसाय अनुदेशक (Welder)	वेतनमान- 9300-34800 /- ग्रेड ० गै- 4200 /- वेतन स्तर-6	(i) शैक्षणिक योग्यता- Welder व्यवसाय में राष्ट्रीय शिक्षण प्रमाण-पत्र या राष्ट्रीय व्यवसाय प्रमाण-पत्र। (ii) अनुभव- राज्य सरकार/कला उपकार से मानांकित, कला विभागी, जी- उद्योग/संस्थान से संबंधित क्षेत्र में काम करने का या किसी राज्य तकनीकी आयोग/प्रशिक्षण के रूप में अनुभव 03 (03) वर्ष का अनुभव। (iii) प्रशिक्षण एवं विभाग देने के लिए अधिपानी योग्यता- संबंधित व्यवसाय में कमस्ट इंस्ट्रक्टर ट्रेनिंग सर्टीफ (टाई) का एक वर्षीय प्रमाण-पत्र।

नोट:- वैसे आवेदक जो विभिन्न व्यवसायों के लिए संबंधित अधिपानी योग्यता नहीं रखते हैं, वे भी नियुक्ति हेतु आवेदन कर सकते हैं यदि उनका प्रमाण हो जाता है, जो उन्हें कार्यभार सभ्य करने की शक्ति से तीन वर्ष के अंदर अपने व्यवसाय में सी० आई० टी० एच० का कोई पूर्ण करना होता और उन्हें उसका प्रमाण के लिए आवश्यक प्रमाण दिया जाएगा। यदि कोई व्यक्ति अपने नियोजन के दो कारणों से पद को प्राप्त करने में असमर्थ हो तो उसे उक्त पाठ्यक्रमों को पूरा करने के लिये एक वर्ष और अनुमानित किया जाएगा। यदि कोई व्यक्ति उक्त अवधि के भीतर सी० आई० टी० एच० प्रमाण-पत्र प्राप्त करने में असमर्थ रहता है तो उसका प्रमाण प्रमाण यदि अनुमानित नहीं किया जाएगा उक्त सरकार उक्त सेवा संबंधित पर विचार कर सकती है, जिसके लिये संबंधित व्यक्ति का कोई दावा मान्य नहीं होगा।

क्र० सं०	कोटि	कोटिवार कुल शक्ति की संख्या	इनमें महिलाओं के लिए 35% सी० आई० टी० एच० प्रमाण के अनुसार अनुमानित पदों की कुल संख्या
1	अवरक्षित	31	10
2	अवरक्षित रूप से अनुपेक्षित वर्ग	08	03
3	अनुपेक्षित वर्ग	11	04
4	अनुपेक्षित वर्ग	01	00
5	अनुपेक्षित वर्ग	15	05
6	अनुपेक्षित वर्ग	07	02
7	अनुपेक्षित वर्ग की महिला	03	—
	कुल-	76	24

1	सामान्य प्रमाणिका विभाग, बिहार पटना के पत्रांक-2023, दिनांक-20.07.2023 के अंतर्गत में राज्य के सर्वोच्च सेवाओं के सेवा/पैरी/पैरी/पैरी के लिए आवेदन (24) शैक्षणिक प्रमाणिका के अंतर्गत देय कुल पदों की संख्या	02
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11. Relating to eligibility, the clause is mentioned above, and the next relevant point is set out in Clause 8, which reads as under:-

"योग्यता से संबंधित सभी प्रमाण-पत्र यथा- शैक्षणिक प्रमाण-पत्र, आरक्षण हेतु निर्गत

प्रमाण-पत्र, कार्यानुभव हेतु निर्गत प्रमाण-पत्र वही मान्य होंगे, जिसका उल्लेख उम्मीदवार ने अपने मूल ऑनलाईन आवेदन-पत्र में किया है। उक्त सभी प्रमाण-पत्रों के निर्गत होने की तिथि 03.08.2023 के पूर्व का होना आवश्यक है।"

12. So far as the judgment passed by this Hon'ble Court in the case of *Golden Kumar (supra)* is concerned, paragraphs 27 and 28 of the said judgment read as follows:

"27. Now we come to the method of selection as prescribed in the advertisement which as we noticed takes in a written examination with 50 per cent marks, 20 per cent marks for diploma or engineering certificate, 30 per cent of CITS and 25 marks as weightage for contractual appointment. There is no procedure prescribed in the Rules of 2013 and hence the procedure prescribed by the State Government as per the advertisement, being only reasonable and also in consonance with the preferential treatment of CITS as mandated by the Central government can be upheld. The procedure does not in any manner conflict with the Rules of 2013; even if the Rules of 2018 is found to be inapplicable at the time of advertisement; which we have already found is not a valid



contention.

28. Now we come to the weightage given for contractual employees. We see that in the Rules of 2018, Notification no. 8025 dated 21.05.2013 of the General Administration Department permits weightage to the contract employees; as evident from paragraph no. 9(E) of Rules of 2018. Independent of the Rules of 2018 also the notification of the General Administration Department survives and the weightage is proper. We are also of the opinion that the Short Term/Guest Lecturers cannot be equated with the contractual employees. But for producing the advertisement for appointment of Short Term/Guest Lecturers, there is nothing stated as to how the selection was conducted. The selection of contractual employees as was pointed out by the learned Advocate General differs considerably from the engagement of Short Term/Guest Lecturers since they cannot be found, equal to the contractual employees. We are of the opinion that the weightage conceded only to the contractual employees also is in order.”

13. After going through the relevant provisions of the advertisement and the findings of the Hon’ble Court in



paragraphs 27 and 28 of the above-mentioned case, this Court is of the firm view that the petitioner has no case, as the experience certificate issued by the organization is not recognized by the Industrial Department, and the certificate produced has been issued on 12.07.2024, whereas, as per the advertisement, the cut-off date was fixed as 03.08.2023.

This Court is also of the opinion that, in light of the decision mentioned above, the issue has already been decided, and there is a distinction between contractual employees and guest employees. The engagement of short-term/guest lecturers cannot be equated with contractual employees. For these reasons, this Court finds that there is no merit in the present case and, accordingly, the present writ petition stands dismissed.

(Dr. Anshuman, J.)

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