IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.641 of 2021
In
Civil Writ Jurisdiction Case No.3139 of 2021

CNR No. BRHC010781292021

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1. Sunil Kumar Singh, son of Deonandan Singh, Resident of Village-Nawadih, P.O.-Amjhore, District-Rohtas, Bihar (821302), presently working as J.E. under DME/C and W/DDU in East Central Rail having registration No. BR00150010094633
2. Ravikant Kumar, son of Sri Madan Prasad Singh, Resident of Plot No. D4-204, IIT, Patna, Bihar Campus,P.O. + P.S.- Bihta, District-Patna-801103 having its Registration No. BR00150010094126.
3. Mani Bhushan Kumar, son of Sri Vishnu Deo Ray, House No. 31, Village-Fatehpur Pakri, P.S.+P.O. Piroe, District-Vaishali, Bihar, presently posted as SI/Overseer (JE) at Indo Tibetan Border Police Force, Halbhaui Camp, Belgaum, Karnataka-591156 having Registration No. BR00150010035288.

... ... Appellant/s

Versus

1. The State of Bihar through Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Bihar Technical Service Commission, 19-Harding Road, Patna through its Chairman.
4. The Chairman, Bihar Technical Service Commission, Patna.
5. The Secretary, Bihar Technical Service Commission, Patna.
6. The Deputy Secretary, Bihar Technical Service Commission, Patna.
7. Jitendra Kumar Singh, son of Sri Ramesh Kumar Singh, Resident of Mohalla-Maharana Pratap Nagar, Ara, P.S. Ara, District-Bhojpur (Ara).
8. Nasir Furquan Khan, son of Md. Faiyaz Ahmad, Resident of Mohalla-Baksaria Tola, Sultanganj, Ashok Raj Path, Sampatchak, Patna (Bihar).
9. Sunil Kumar Chaturvedi, son of Sri Havaldar Chaturvedi, Resident of West Patel Nagar, Ganga Path, P.S. Shastrinagar, District-Patna.
10. Gautam Kumar Das, son of Basudeo Das, Resident of Village-Safi Chak, P.S. Sherghati, District-Gaya.
11. Vivek Ranjan, son of Nakil Deo Mehta @ Wakil Deo Mehta, Resident of Village-Bhirha, P.S. Medni Chowki, District-Lakhisarai.
12. Pankaj Kumar, son of Ram Prawesh Pandit, resident of Village-Jat Dumri, P.S. Punpun, District-Patna.

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13. Aniket Kumar, son of Om Prakash Prasad, resident of Village-Gandhinagar, P.S. Bagaha, District-West Champaran.
14. Satish Kumar Singh, son of Virendra Singh, Resident of Village-Sultanpur, P.S. Desari, District-Vaishali.
15. Meghnath Kumar, son of Rambabu Ray, Resident of Village-Khanpatti, P.S. Mahua, District-Vaishali.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Rajendra Narain, Sr. Advocate. Mr. Satya Ranjan Sinha, Advocate. Ms. Seema Kumari, Advocate. Mr. Dhananjay Kumar, Advocate. Ms.Srishti Kumari, Advocate.
For the State	:	Mr. Saroj Kumar Sharma, AC to AAG-3
For the BTSC	:	Mr. Nikesh Kumar, Advocate. Ms. Jyoti, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE ALOK KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 23-11-2026

Heard learned counsel for the parties.

2. The present *intra* court appeal has been preferred against the judgment and order dated 17.09.2021 passed in C.W.J.C. No. 3139 of 2021, whereby the writ petition preferred by the writ-petitioners (appellants herein) came to be dismissed.

3. The brief facts of the present case are that writ-petitioner no. 1 is working as a Junior Engineer in the East Central Railway, writ-petitioner no. 2 is working at IIT, Bihta, Patna, and writ-petitioner no. 3 is serving as Sub-Inspector/Overseer (Junior Engineer) in the Indo-Tibetan Border

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Police (ITBP). Writ-petitioner no. 1 joined the Railways as a Junior Engineer in 2007, while writ-petitioner no. 2 joined IIT, Bihta, as a Junior Mechanic on 29.01.2013 and was subsequently promoted to the post of Junior Technical Superintendent on 20.07.2016. Writ-petitioner no. 3 is serving as Sub-Inspector/Overseer (Junior Engineer) in ITBP and is presently posted at Halbhavi Camp, Belgaum, Karnataka.

4. The Bihar Technical Services Commission issued Advertisement No. 01 of 2019, pursuant to a requisition made by the General Administration Department, Government of Bihar, inviting applications for appointment to the vacant posts of Junior Engineer (Civil/Mechanical/Electrical). Under the prescribed selection criteria, out of a total of 100 marks, 75 marks were allocated on the basis of marks obtained in the Diploma in Engineering, while the remaining 25 marks were allocated towards work experience as a Junior Engineer on a contractual basis under the Government of Bihar or its instrumentalities.

5. The writ-petitioners, having secured marks above the prescribed cut-off, were called for counselling on different dates. However, at the time of counselling, they were informed that their work experience acquired under the Central

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Government or its instrumentalities would not be considered for the purpose of awarding marks towards experience, as the benefit under the advertisement was confined to candidates having contractual work experience under the Government of Bihar or its instrumentalities.

6. Aggrieved by the aforesaid exclusion, the writ-petitioners submitted representations through e-mail before the authorities concerned, seeking consideration of their work experience in the light of the judgment of the Hon'ble Supreme Court in ***Dr. (Major) Meeta Sahai v. State of Bihar,*** reported in ***2019 (20) SCC 17***. Having received no favourable response, the writ-petitioners approached this Court by filing C.W.J.C. No. 3139 of 2021, seeking, inter alia, quashing of Clause 4(i) of the advertisement to the aforesaid extent and a direction to grant them similar weightage for their work experience. The learned Single Judge, upon hearing the parties, dismissed the said writ petition by observing as follows:

> *"32. In view of the above discussion, on the point of law as well as on the facts, I come to the conclusion that the language of the impugned advertisement and the relevant Rules are clear and there is no ambiguity between them and Clause 4 (i) of the Advertisement No. 01 of 2019 is not contrary to the relevant Rules. Accordingly, Clause 4 (i) of the Advertisement No. 01 of 2019 does not require any interference by this Court.*
> *33. In the result, I find no merit in this writ application, which is, accordingly, dismissed."*

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7. Learned counsel for the appellants submits that the learned Single Judge has erred in dismissing the writ petition without properly appreciating the grievance raised by the appellants and the materials available on record. It is submitted that the impugned order is cryptic, suffers from non-consideration of the relevant facts and is, therefore, unsustainable in law.

8. It is further submitted that restricting the benefit of weightage towards work experience only to candidates who have acquired such experience under the Government of Bihar or its instrumentalities, while excluding candidates having similar experience under the Central Government or its instrumentalities, is arbitrary and discriminatory and violative of Articles 14 and 16 of the Constitution of India. Such classification has no rational nexus with the object sought to be achieved and is also detrimental to merit.

9. Learned counsel further submits that the case of the appellants is squarely covered by the judgment of the Hon'ble Supreme Court in ***Meeta Sahai*** (supra), and, therefore, they are entitled to similar weightage for their work experience. However, the learned Single Judge, without properly examining the aforesaid judgment and the relevant records, has dismissed

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the writ petition. It is thus submitted that the impugned order suffers from legal infirmities and deserves to be set aside.

10. *Per contra*, learned counsel for the respondents submits that the learned Single Judge has rightly dismissed the writ petition after considering Clause 4(i) of Advertisement No. 01 of 2019 and the relevant recruitment rules. It is submitted that the advertisement was issued in consonance with the Bihar Water Resources Department Subordinate Engineering (Civil) Cadre Recruitment Rules, 2015, as amended in 2017, and the Bihar Technical Service Commission Selection Procedure Rules, 2018. The Commission is bound to follow the statutory rules and directions issued by the State Government and the requisitioning department while conducting the recruitment process.

11. It is further submitted that Rule 10 of the 2015 Rules, as amended in 2017, specifically provides for grant of additional marks towards work experience acquired on a contractual basis under the Government of Bihar or its undertakings, corporations, bodies, authorities or autonomous bodies. Accordingly, under Clause 4(i) of the advertisement, out of 100 marks, 75 marks were allocated on the basis of marks obtained in the Diploma course and the remaining 25 marks

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towards the aforesaid contractual work experience. The Commission has merely implemented the recruitment criteria prescribed under the applicable rules and has no authority to extend such benefit to candidates whose experience was acquired under the Central Government or its instrumentalities.

12. Learned counsel further submits that the issue is no longer *res integra*, as a similar claim was rejected by this Court in***, CWJC No. 5022 of 2021 (Vikram Kumar vs. The State of Bihar)***, *vide* order dated 14.12.2021, wherein the claim for grant of weightage on the basis of experience acquired in the Army was declined. The aforesaid order was subsequently affirmed by the Division Bench in ***LPA No. 26 of 2022 (Vikram Kumar vs. The State of Bihar)***, *vide* judgment dated 20.02.2025, holding that the appellant therein did not fall within the category of candidates entitled to the benefit of weightage under the recruitment policy.

13. It is further submitted that the constitutional validity of Rule 10(2)(b) of the 2015 Rules, as amended in 2017, was subsequently challenged in ***CWJC No. 1843 of 2022 (Vikram Kumar vs. The State of Bihar)***, seeking a declaration that the provision granting 25 marks towards contractual work experience under the Government of Bihar or its

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instrumentalities was *ultra vires* Articles 13, 14 and 16 of the Constitution of India. The learned writ Court, *vide* judgment dated 19.04.2022, dismissed the writ petition, holding that the issue stood covered by the earlier decisions of this Court. It is, therefore, submitted that the learned Single Judge has rightly rejected the claim of the appellants in view of the statutory recruitment rules and the judgments passed by this Court on the same and similar issues. Accordingly, the present appeal, being devoid of merit, deserves to be dismissed.

14. We have heard learned counsel for the parties and have also gone through the materials available on record.

15. The limited issue which arises for consideration before this Court is as to whether the order passed by the learned Single Judge suffers from any illegality, perversity or infirmity warranting interference in the appellate jurisdiction of this Court.

16. Before proceeding to examine the rival submissions, it would be appropriate to refer to the settled principles governing judicial interference in matters relating to recruitment and selection. In ***The Maharashtra Public Service Commission v. Sandeep Shriram Warade,*** reported in ***(2019) 6 SCC 362***, the Hon'ble Supreme Court has held that it is for the

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employer to determine the qualifications and preferences required for a particular post and that the Court cannot, by interpretive rewriting of the advertisement, prescribe conditions of eligibility different from those stipulated by the employer. The Court has further held that where the language of the advertisement and the applicable rules is clear, the same must ordinarily be given effect to. The relevant portion of the said order reads as follows:

> *"9. The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being on a par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the court cannot sit in judgment over the same. If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. In no case can the court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same."*

17. Similarly, in ***Bedanga Talukdar v. Saifudaullah Khan,*** reported in ***(2011) 12 SCC 85***, the Hon'ble Supreme

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Court has held that the selection process must be conducted strictly in accordance with the prescribed procedure and that the terms and conditions of an advertisement cannot be relaxed unless such power is specifically reserved under the applicable rules or the advertisement. Any such relaxation, if granted, must also be duly publicised so that all eligible candidates get an equal opportunity to participate. The relevant portion of the said order reads as follows:

> *"29. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There can not be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of quality contained in Articles 14 and 16 of the Constitution of India."*

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18. In the light of the aforesaid principles, it would be necessary to examine Clause 4(i) of Advertisement No. 01 of 2019, which prescribes the criteria for preparation of the merit list. The relevant portion of the said clause reads as follows:

> "4. चयन का प्रक्रिया –
>
> (i) कनीय अभियंताओं के पदों पर चयन डिप्लोमा या समकक्ष योग्यता में प्रतिशत प्राप्तांक के आधार पर किया जायेगा। बिहार सरकार या बिहार सरकार के अधीन किसी उपक्रम /निगम/ निकाय/ प्राधिकार /स्वशासी निकाय में संविदा के आधार पर कनीय अभियंता (असैनिक / यांत्रिक /विद्युत) के पद पर कार्य करते हैं, को अतिरिक्त अंक देकर अधिमानता दी जायेगी।
>
> (ii) अभ्यर्थी की मेधा सूची निम्नलिखित आधार पर तैयार की जायेगी।
>
> (क) डिप्लोमा या समकक्ष योग्यता से प्रतिशत प्राप्तांक के आधार पर -75 अंक
>
> (ख) संविदा के आधार पर कनीय अभियंता के पद पर कार्य करने के निमित अधिकतम अधिमानता (प्रति कार्यरत वर्ष के लिए 5 अंक, जिसकी अधिकतम सीमा 25 अंक की होगी। किसी वर्ष के अंश के लिए कार्यरत दिवसों की संख्या में संख्या-5 से गुणा करने के पश्चात् 365 से भाग देकर प्राप्त अनुपातिक अंक जोड़ा जायेगा) -25 अंक
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> (iii) अभ्यर्थी 28.02.2019 तक संविदा के आधार पर कार्यरत अवधि का नियंत्री पदाधिकारी द्वारा निर्गत वेतन भुगतान प्रमाण-पत्र का साक्ष्य ऑनलाईन आवेदन के विहित कॉलम में दर्ज करेंगे।
>
> (iv) डिप्लोमाधारी उम्मीदवारों की कनीय अभियंता

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(असैनिक/यांत्रिक विद्युत) के रूप में नियुक्ति निम्नलिखित विधि से की जायेगी:-

(क) इस विज्ञप्ति में अंकित पदों से संबंधित संवर्ग भर्ती नियमावली के सुसंगत प्रावधानों के तहत कुल रिक्त पदों का आरक्षण कोटिवार 40 प्रतिशत पद राज्य के अधीन सरकारी पोलिटेकनिक संस्थानों से असैनिक /यांत्रिक/ विद्युत डिप्लोमाधारी उम्मीदवारों के लिए आरक्षित रहेगा, जिन्हें आरक्षण कोटिवार निर्धारित प्रक्रिया के तहत तैयार मेधा सूची के आधार पर भरा जायेगा।

(ख) शेष रिक्ति आरक्षण कोटिवार इस विज्ञप्ति में अंकित पदों से संबंधित संवर्ग नियमावली के प्रावधानों के तहत निर्धारित योग्यता / अर्हता के आधार पर निर्धारित प्रक्रिया के तहत तैयार मेधा सूची के आधार पर भरी जायेगी।

(ग) कंडिका-(ख) के रिक्त पदों के सामान्य प्रक्रिया से भरे जाने के पश्चात् अवशेष मेधा सूची के आधार पर कंडिका-(क) के आरक्षित पदों को राज्य के अधीन सरकारी पॉलिटेकनिक से उत्तीर्ण अभ्यर्थियों में से आरक्षण कोटिवार मेधा क्रम में चयन द्वारा भरा जायेगा।"

19. A plain reading of the aforesaid clause makes it clear that the benefit of additional marks, to the extent of 25 marks, has been confined to candidates who have worked as Junior Engineers on a contractual basis under the Government of Bihar or any undertaking, corporation, body, authority or autonomous body under the Government of Bihar. The clause does not provide for grant of such weightage to candidates merely on the basis of their experience under the Central Government or its instrumentalities.

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20. Admittedly, the appellants have acquired their respective work experience under the Central Government or its instrumentalities, namely, the East Central Railway, IIT, Bihta, and the Indo-Tibetan Border Police. Their grievance is that such experience ought to have been treated at par with the experience prescribed under Clause 4(i) of the advertisement.

21. The aforesaid submission, however, cannot be considered in isolation from the statutory framework governing the recruitment. The Bihar Technical Service Commission was constituted under the Bihar Technical Service Commission Act, 2014, and the selection process is governed by the applicable recruitment rules as well as the Bihar Technical Service Commission Selection Procedure Rules, 2018. The Bihar Water Resources Department Subordinate Engineering (Civil) Cadre Recruitment Rules, 2015, as amended in 2017, prescribe the criteria for selection and provide for weightage towards contractual work experience under the Government of Bihar or its instrumentalities. The relevant recruitment rules governing the other categories of Junior Engineer posts also prescribe the applicable selection criteria.

22. It thus appears that the condition incorporated in Clause 4(i) of the advertisement is not an independent

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stipulation introduced by the Commission. Rather, the advertisement reflects the criteria prescribed under the applicable recruitment rules. In other words, there is no apparent inconsistency between the advertisement and the statutory rules governing the selection. The advertisement has to be read along with the rules under which it has been issued, and the Commission cannot be directed to grant a benefit beyond the category prescribed therein.

23. At this stage, it would also be necessary to consider the reliance placed by learned counsel for the appellants on the judgment of the Hon'ble Supreme Court in ***Meeta Sahai*** (supra). In the said case, the Hon'ble Supreme Court was considering the interpretation of Rules 5 and 6(iii) of the Bihar Health Service (Appointment and Service Conditions) Rules, 2013, relating to grant of weightage for work experience in Government hospitals. The advertisement in that case restricted the benefit to experience gained in hospitals run by the Government of Bihar, whereas the statutory rules, upon interpretation by the Hon'ble Supreme Court, were held to include experience in other non-private hospitals within the territory of Bihar, including those run by the Central Government and other public authorities.

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24. The aforesaid judgment, therefore, proceeded on the basis that the restriction contained in the advertisement was inconsistent with the scope of the statutory rules. The Hon'ble Supreme Court interpreted the relevant rules and held that the expression "Government hospital" could not be confined to hospitals run only by the Government of Bihar. The said decision cannot be read as laying down a general proposition that every kind of experience acquired under the Central Government or its instrumentalities must necessarily be granted weightage in every State recruitment process. The entitlement to such weightage would depend upon the language and scope of the relevant statutory rules.

25. The distinction assumes significance in the present case. Unlike ***Meeta Sahai*** (supra), the appellants have not demonstrated any inconsistency between the advertisement and the applicable recruitment rules. The advertisement, in the present case, incorporates the very category of experience for which weightage has been provided under the rules. Thus, the principle laid down in ***Meeta Sahai*** (supra) does not assist the appellants in seeking an enlargement of the category prescribed under the applicable recruitment rules.

26. It is also relevant to notice that in ***Meeta Sahai***

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(supra), the Hon’ble Supreme Court, while dealing with the preliminary objection regarding participation in the selection process, clarified that participation would not prevent a candidate from challenging a misconstruction of statutory rules or an illegality having constitutional consequences. We are conscious of the aforesaid principle and are not rejecting the appellants’ claim merely on the ground that they participated in the selection process. The claim has been examined on its merits, particularly in the light of the applicable recruitment rules and the language of the advertisement.

27. The appellants have challenged Clause 4(i) of the advertisement; however, they have not questioned the constitutional validity of the underlying Rule 10(2)(b) of the Bihar Water Resources Department Subordinate Engineering (Civil) Cadre Recruitment Rules, 2015, as amended in 2017. In the absence of a challenge to the relevant statutory provision, the appellants cannot seek a direction which would, in effect, require the Commission to extend the benefit of weightage to a category not contemplated under the said provision.

28. We may also notice that the validity of Rule 10(2)(b) of the aforesaid 2015 Rules, as amended in 2017, was specifically challenged before this Court in **CWJC No. 1843 of**

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2022 (***Vikram Kumar v. State of Bihar)***. The petitioner therein sought a declaration that the provision granting weightage for contractual experience under the Government of Bihar or its instrumentalities was ultra vires Articles 13, 14 and 16 of the Constitution of India. The Division Bench, vide judgment dated 19.04.2022, dismissed the writ petition.

29. The relevant observations made by the Division Bench in ***Vikram Kumar*** (supra) is reproduced hereinbelow:

> *"The issue raised in this writ petition is no more res integra and stands decided by Division Bench of this Court by order dated 10.04.2015 passed in CWJC No.855 of 2015 (Dr. Dharmbir Kumar & Ors. versus The State of Bihar and Anr.). The relevant paragraphs of the aforesaid judgment are reproduced as under:-*
>
> > *"Clause B is in relation to Specialized Subcadre and is almost similar in content. The objection raised by the petitioners is about Clause-7(2)(A)(iii), which provides for award of 5 marks per year of experience in the Government Hospitals subject to a maximum of 25 marks. Even according to the petitioners, several candidates were engaged in Government Hospitals on contractual basis and such candidates are being awarded five marks for each year of experience.*
> >
> > *Awarding of marks for experience is not uncommon. The candidates who have been engaged on contractual basis served the Government Hospitals at a time when their other colleagues have been pursuing their green pastures. The State can certainly recognize the service of such candidates, subject, of course, to certain limits."*
>
> *Similar view has been expressed by Division Bench of this Court by order dated 24.08.2020, passed in CWJC No.8225 of 2015 (Shailesh Chandra Gupta and Anr. Vs. State of Bihar & Ors. and its analogues cases) wherein Division Bench has also*

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approved the Recruitment Rules framed under Article 309 of the Constitution of India by the State Government in which weightage for experience was granted to contract employees while considering regular appointment on the said post. However, in said judgment, it has also been clarified that the benefit of experience as contractual employee can only be granted, if the contract appointment has been made, meeting the requirement of Article-14 and 16 of the Constitution of India. Relevant paragraph of said judgment is reproduced hereinbelow:-

> *"Division Bench of this Court in C.W.J.C. NO. 15231 of 2015 by order dated 21.06.2016 referred the matter to be considered by Larger Bench and same was placed before Full Bench to answer the reference and Full Court answered the reference as following:-*
>
> *"The order passed by the Division Bench on 10.04.2015 in C.W.J.C. No. 855 of 2015 will not have universal application in all cases. While considering the question of granting benefit of marks towards experience gained by an employee for working on contract basis, the matter of induction of the employee into service, i.e. the contract employee will have to be considered and only if the appointment even on contract basis is made after following procedure known to law meeting the requirement of Article 14 can a benefit be granted and not otherwise.*
>
> *The reference is, accordingly, disposed of."*

The Apex Court in a case of Dr. (Major) Meeta Sahai since reported in 2019 (20) SCC 17, has also approved grant of weightage of experience in recruitment rules framed by State of Bihar for appointment of medical officers and relevant paragraphs 18, 19, and 36 are reproduced below:-

> *"18.The question of permissibility of giving weightage for "work experience" in government hospitals is also not the bone of contention in this case. Medicine being an applied science cannot be mastered by mere academic knowledge. Longer experience of a candidate adds to his knowledge and expertise. Similarly, government hospitals differ from private hospitals vastly for the former have unique infrastructural constraints and deal with poor masses. Doctors in such non-private*

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hospitals serve a public purpose by giving medical treatment to swarms of patients, in return for a meagre salary. Hence, when placing emphasis on the requirement of work experience, there is no dispute on such recognition of government hospitals and private hospitals as distinct classes. Instead such recognition ensures that the doctors recruited in not-so-rich States like Bihar have the requisite exposure to challenges faced in those regions.

19.The appellant has thus rightly not challenged the selection procedure but has narrowed her claim to only against the respondents' interpretation of "work experience" as part of merit determination. Since interpretation of a statute or rule is the exclusive domain of courts, and given the scope of judicial review in delineating such criteria, the appellant's challenge cannot be turned down at the threshold. However, we are not commenting specifically on the merit of the appellant's case, and our determination is alien to the outcome of the selection process. It is possible post what is held hereinafter that she be selected, or not.

36 For the reasons stated above, the appeal is allowed. Rules 5 and 6(iii) of the Bihar Health Service (Appointment and Service Conditions) Rules, 2013 are construed to include the experience gained by a doctor in any hospital run by the Bihar Government or its instrumentalities, as well as any other non-private hospital (including those run by the Central Government, Municipalities and Panchayati Raj Institutions; or other public authorities) within the territory of Bihar. The respondents are accordingly directed to rework and prepare a fresh merit list by granting due weightage to the appellant and other similarly placed candidates, within two months. We however clarify that grant of weightage on the basis of work experience shall have no bearing on the suitability of a candidate."

For the reasons, as stated above, writ petition has no merit and is accordingly dismissed. No order as to cost."

30. The aforesaid decision is relevant inasmuch as the

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very provision under which the benefit of contractual work experience has been confined to a particular category of candidates has already been examined by a Division Bench of this Court. The appellants have not placed any material before us to distinguish the said decision or to demonstrate that the recruitment criteria applicable to their cases stand on a materially different footing.

31. A similar claim for grant of weightage on the basis of experience acquired in the Army was also considered by this Court in CWJC No. 5022 of 2021, which was dismissed vide order dated 14.12.2021. The said order was subsequently affirmed by the Division Bench in LPA No. 26 of 2022, vide judgment dated 20.02.2025. The claim for grant of additional marks on the basis of experience outside the category prescribed under the recruitment criteria was not accepted.

32. In view of the aforesaid discussion, the contention that exclusion of experience acquired under the Central Government or its instrumentalities is arbitrary and violative of Articles 14 and 16 of the Constitution of India cannot be accepted. The State, as the rule-making authority, is entitled to prescribe the criteria for grant of additional marks, provided the same is not contrary to the Constitution. The mere fact that the

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appellants possess work experience under other Government establishments does not, by itself, confer upon them a right to claim the same weightage as candidates falling within the category expressly recognised under the recruitment rules.

33. The appellants are, in effect, seeking extension of the benefit of additional marks to a category which has not been included in the applicable rules. Such a direction would amount to rewriting the recruitment criteria and substituting the Court's view for that of the competent rule-making authority. In view of the law laid down in ***Maharashtra Public Service Commission*** (supra), this Court cannot undertake such an exercise in the exercise of its power of judicial review.

34. Further, as held in ***Bedanga Talukdar*** (supra), the selection process has to be conducted in accordance with the stipulated procedure, and the benefit of relaxation cannot be extended to an individual candidate in the absence of any enabling provision. Granting the appellants additional marks contrary to the prescribed criteria would also have an impact on other candidates who participated in the selection process on the basis of the same advertisement. The Commission, therefore, cannot be faulted for adhering to the criteria prescribed under the applicable rules and the advertisement.

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35. In view of the aforesaid facts and circumstances, we find that the learned Single Judge has rightly declined to interfere with Clause 4(i) of Advertisement No. 01 of 2019. The appellants have failed to demonstrate any inconsistency between the advertisement and the applicable recruitment rules or any illegality in the criteria prescribed therein. Consequently, no ground for interference with the order passed by the learned Single Judge is made out. The issue framed is therefore, answered against the appellant.

36. Accordingly, the present *intra* court appeal stands dismissed.

37. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Alok Kumar, J)

Sujit/-

AFR/NAFR	AFR
CAV DATE	NA
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