
(2004) 07 PAT CK 0135

Patna High Court

Case No: C.W.J.C. No. 11180 of 1998

Anirudh Prasad

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision: July 1, 2004

Citation: (2004) 4 PLJR 627

Hon'ble Judges: Narayan Roy, J

Bench: Single Bench

Advocate: Ashok Kr. Singh, for the Appellant; Rajeev Kr. Singh for B.P.S.C., Mr. J.C. to G.P. IV for the State and Mr. Gajanan Arun for Private Respondents, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Narayan Roy, J.

Heard learned counsel for the parties. This writ application has been filed for issuance of a writ of mandamus commanding upon the respondent nos. 2 and 3 to include the name of petitioner within top ten of the merit list of the selected candidates for appointment to the post of Junior Plant Protection Officer (Instructor) Plant Protection Surveylians Officer in Bihar Agriculture Service Category V.

2. Precisely, it is submitted by learned counsel for the petitioner that the petitioner was M.Sc. (Agriculture) and he had also done certain research work and pursuant to advertisement no. 29 of 1989 which, was advertised to fill up the posts of Junior Plant Protection Officer (Instructor) Plant Protection Surveylians Officer in the Bihar Agriculture Service Category V, he applied for the post aforesaid. Consequently he was allowed to appear in the written competitive examination.. In the written examination he was successful and thereafter he was called for interview and after interview, 13 persons were recommended by the Bihar Public Service Commission (hereinafter referred to as the Commission) in 1998 for appointment on the post aforesaid but the name of the petitioner was not recommended. It is further

submitted that the petitioner has reason to believe that owing to his educational qualification he has fared well and he has secured sufficiently higher marks but somehow or the other his name was not recommended by the Commission for appointments.

3. Learned counsel for the petitioner submitted that initially ten posts were advertised and names of thirteen persons were recommended by the Commission contrary to the advertisement and this shows that things were manipulated at the level of Commission to accommodate certain persons.

4. Three sets of counter affidavits have been filed; one on behalf of the Commission, another on behalf of the State and also on behalf of private respondents. The stand of the Commission as per the statements made in the counter affidavit, is that since the petitioner had not secured the requisite qualifying marks both in written test and the viva voce test and sufficient number of candidates had secured higher marks, his name was not recommended by the Commission. J.C. to G.P. 4 submits that the State Government vide communication as contained in Annexure A to the counter affidavit issued on 3.12.1998 requested the Commission to recommend 13 persons to fill up altogether 13 posts of Junior Plant Protection Officer (Instructor) Plant Protection Surveylians Officer in Bihar Agriculture Service Category V and on the basis of the recommendation of the Commission, the recommended persons were appointed and the posts have been filled up. Learned counsel for the private respondents on the contrary, submitted that the petitioner as a matter of right has no locus to challenge the appointment of private respondents and merely because he was possessing higher qualification he would not have been eligible for selection as a competitive examination was held where private respondents secured higher marks than him. Learned counsel, therefore, stated that in the given facts and circumstances of the case, no relief should be granted to the writ petitioner and the writ petition is liable to be dismissed.

5. Learned counsel for the petitioner has tried to impress upon the court that since the petitioner was having higher qualification and he was better qualified than the private respondents, preference could have been given to him and he has reason to believe that he has secured sufficiently higher marks. However, there is nothing in the writ application to show that the private respondents had secured lesser marks than the petitioner and the petitioner had secured extraordinary marks both in written as well as in viva voce test. Mere presumption of the petitioner on the basis of his qualification could not be the sufficient ground for this court to interfere in the matter. The merit list is prepared by the Commission on the basis of the marks secured and there is no allegation of any malafide against the Commission nor it is stated that there was any question of prejudice against the petitioner.

6. Considering the facts and circumstances of the case and for the reasons aforementioned, therefore, I do not find any reason to interfere in the matter. In the result, this application is dismissed. No costs.