

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17547 of 2024

Dr. Kumar Brajesh @ Kumar Brajesh Son of Dhanraj Choubey Resident of
Muhala- Babnaul, District- Rohtas.

... .. Petitioner/s

Versus

1. The Bihar State University Service Commission through its Secretary, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna- 800001.
2. The Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna- 800001.
3. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna- 800001.
4. The State of Bihar, through the Principal Secretary, Department of Education, Government of Bihar, Patna.
5. The Principal Secretary, Department of Education, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anand Kumar Ojha, Sr. Advocate Mr. Shankar Kumar, Advocate Mr. Askhansh Shankar, Advocate
For the Respondent/s	:	Mr. Standing Counsel (20) Md. Zeeshan Kalim, AC to SC -20
For the BSUSC	:	Mr. Pawan Kumar, Advocate Ms. Diksha Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 15-12-2025

Heard Mr. Anand Kumar Ojha, learned Senior Advocate along with Mr. Shankar Kumar, learned Advocate for the petitioner; Mr. Pawan Kumar, learned Advocate for Bihar State University Service Commission and Md. Zeeshan Kalim, learned Advocate for the State.

2 The petitioner, an aspirant for the Post of Assistant Professor (Physics) in the Universities of Bihar in



connection with Advertisement No. AP-PHYS-20/20-21 dated 21.09.2020, has invoked the jurisdiction of this Court seeking a declaration that his non-inclusion in the list of selected candidates for the post of Assistant Professor (Physics) in EWS category, as contained in Notice No. 1640 dated 30.09.2024 issued by the Secretary, Bihar State University Service Commission (hereinafter referred to as 'the Commission') is illegal, arbitrary and without jurisdiction. The petitioner has further prayed for a direction to consider the certificate of experience to be valid satisfying the requirement of the Advertisement and considering the case of the petitioner afresh by awarding suitable marks against the experience.

3. The facts briefly narrated in the writ petition are that the Commission vide Advertisement No. AP-PHYS-20/20-21 dated 21.09.2020 invited Online applications for regular appointment on the post of Assistant Professor (Physics) in different Universities. The petitioner on being found eligible submitted his application under the EWS category along with other necessary certificates/papers. The Commission vide notice no. 595 dated 21.06.2024 notified the name of the candidates, whose applications were approved. The name of the petitioner stands at serial no. 1158. The said notice also stated that if any



candidate has any grievance or claim, the same could be sent on the provided Email ID before 5.00 PM on 06.07.2024. The petitioner taking some abundant precaution uploaded some additional documents in support of his experience at Indian Institute of Science, Bangalore, which was duly acknowledged by the Commission. However, with respect to the said Email, the Commission categorically responded that the marks is awarded only on the documents attached with the application form and thus any additional document sent through Email will not be considered.

4. On receipt of Email, call letter for interview was issued. The petitioner ensured his appearance before the Committee on 24.09.2024 and submitted the attested copies of the original documents. Following which the Commission vide Notice No. 1640 dated 30.09.2024 released the category wise final result of the selected candidate. The cut off marks in the EWS category was fixed 83.4 marks and a total of 22 candidates were selected in the said category, but the name of the petitioner did not find place.

5. Aggrieved by his exclusion, the petitioner sought an information as to the total marks obtained by him along with break-up. On 16.10.2024, the Commission has uploaded the



results of the candidates, including the petitioner. The results shown award of 66 marks under System Generated Total Score, award of 10 marks under Manual Generated Score and 6 marks for Interview, rounding up the total marks to 82. However, no marking against experience certificate has been made for about 7 years of Post Doctoral Experience at premier Institute. Thus, the petitioner could not attend the cut off marks by margin of 1.4 marks.

6. Mr. Anand Kumar Ojha, learned Senior Advocate for the petitioner adverting to the facts submitted that the Commission acted negligently in overlooking the experience certificate issued by and on behalf of the Premier Institute. The experience certificate duly issued by the Joint Registrar of the Indian Institute of Technology, which is the authorized signatory cannot be held to be invalid certificate. It is categorically submitted that the petitioner had a Post-Doctoral Experience of 4 years, 8 months and 9 days at IISC, Bangalore and 2 years, 5 months and 13 days of experience at IIT, Kanpur, hence he could not have scored less than 86 marks, even while assuming that he received '0' marks in the interview.

7. It is the contention of the learned Senior Advocate that the format of administrative structure in the IIT



across the Country is different from the conventional University. The Joint Registrar/Deputy Registrar subsumes the authorities under the endorsement of the Registrar of the IIT. To support the aforesaid submission to the extent that in the IIT, the Joint Registrar is the authorized signatory and he is delegated with the authority to issue experience certificate, a letter, bearing no.569 dated 23.10.2024 with enclosure of letter dated 15.10.2020 issued from the Registrar, IIT, Kanpur have been placed on record. The aforesaid letter, clarified that the Joint Registrar is said to be authorized signatory for the certificate regarding experience of a candidate/employee.

8. Making the aforesaid submission, learned Senior Advocate further urged that the certificate issued by the statutory authority is in itself valid and negating the experience certificate of the Joint Registrar amounts to violating the autonomy of the IITs. The IITs are governed by IIT Act 1961 and the statute framed thereunder while the conventional Universities retains the authority of issuance of experience certificate by the Registrar. The petitioner lagged behind due to illegal narrative of the Commission that any experience certificate sans endorsement of the Registrar, is no certificate in the eyes of law.



9. It is further contended that the Court ought to consider the large impact of such arbitrary exclusion of the candidates belonging to Premier Institutions like IIT. A resident of the State of Bihar has excelled up to the attainment of Ph.D and subsequent post-doctoral experience at the IIT. Instead of encouraging such candidates capable of making a difference in the academic scenario, the Commission had not even been fair as it seems in acknowledging the merits of the candidate like the petitioner. Hence the petitioner has strong case for an equitable intervention in the public law jurisdiction under Article 226 of the Constitution of India.

10. Refuting the aforesaid contention, Mr. Pawan Kumar, learned Advocate for the Commission submits that the captioned advertisement specifically lays down the terms and conditions, which are to be scrupulously followed. Clause 7 of the Advertisement provides for selection process. Clause 7.1 of the Advertisement prescribes 100 marks will be allotted for educational qualification and 15 marks for interview. The Commission after scrutiny of the application form submitted by the applicants, shortlisting of the applicant shall be made strictly in accordance with criteria laid down in the Clause 7.2 of the Advertisement. It is clearly stated at the foot note at Clause 7.2



that if the period of Teaching/Post-Doctoral experience is less than one year then the marks shall be reduced proportionately. Credit will be given only on the basis of certificates, countersigned by the Registrar of the University. Clause 5.12 of the Advertisement specifically provides that only those certificates and degree will be valid regarding qualification, the candidate has mentioned in the application form. It has further been clarified in Clause 15 of the advertisement that candidates should make all entries in the Online application with due care. Any change or modification subsequently will not be acceptable and the Commission will never be responsible for any error. It is further submitted that after scrutiny of the application form and documents enclosed therein, the expert committee has awarded '0' marks in teaching experience, since the certificate was not countersigned by the Registrar of the University as mandated in Clause 7.2 of the Advertisement. The petitioner has only scored 82 marks whereas the last selected candidate under EWS (Male) category secured 83.4 marks, hence the petitioner was not selected.

11. Referring to the experience certificates, duly submitted by the petitioner along with application form in connection with the captioned advertisement, it is vehemently



submitted that for the period the petitioner worked as Research Associate during September, 2013 to May, 2018 in the Indian Institute of Science, Bangalore, the same has been issued only under the signature of Chairman, Department of Materials Engineering, Indian Institute of Science, Bangalore and the Professor, Department of Materials Engineering, Indian Institute of Science, Bangalore whereas the experience certificate for the period working in the Department of Material Science and Engineering, Indian Institute of Technology (IIT), Kanpur since 11.05.2018 as a Senior Project Science, the same was issued under the signature of Professor, Department of Material Science and Engineering, Indian Institute of Technology, Kanpur with a certificate of the Joint Registrar (R &D) Indian Institute of Technology, Kanpur. On account of the aforesaid facts and the experience certificate having not been counter signed by the Registrar of the University/Institutions, the same was not taken into consideration in terms with Clause 7.2 of the Advertisement.

12. Reliance has also been placed on a decision of this Court rendered in the case of **Dr. Babita Kumari Vs. The State of Bihar & Ors. (C.W.J.C. No. 12893 of 2024)**. This Court in the aforesaid case taking note of the decision rendered



by the Full Bench of this Court in the case of ***Braj Kishore Prasad Vs. State of Bihar & Ors.*** reported in, ***1998 (3) PLJR 34*** as also the decision of the Hon'ble Supreme Court in the case of ***Bedanga Talukdar Vs. Saifudaullah Khan***, reported in, ***(2011) 12 SCC 85*** and the decision of the learned Division Bench of this Court in the case of ***Dr. Shishu Pal Singh @ Shishu Pal Singh Vs. The State of Bihar & Ors.*** (L.P.A. No. 1003 of 2024) has held that since the petitioner did not possess the necessary experience certificate, duly counter signed by the Registrar of the University and the same was not produced even till the last date mentioned by the selecting authority did not interfere in the writ petition and dismissed accordingly.

13. Learned Advocate for the State adopting the aforementioned submissions advanced by the learned Advocate for the Commission submitted that the commission is responsible to publish the merit list in accordance with law after following all the provisions contained in the relevant Acts and Rules in due conformity with the terms of the advertisement.

14. This Court has given anxious consideration to the submissions advanced by the learned Advocate for the respective parties and also perused the materials available on record, especially the terms of the advertisement.



15. Before coming to the issue regarding validity of the experience certificate submitted by the petitioner along with the application form for appointment to the post of Assistant Professor in connection with captioned advertisement, it would be worth benefiting to recapitulate the issue regarding primacy to the terms and conditions of the advertisement. The Apex Court in the case of *Bedanga Talukdar (supra)* while reiterating the settled position that all appointment to public office have to be made in conformity of Article 14 of the Constitution of India and there must not be any arbitrariness, resulting from any undue favour being shown to any candidate held as follows:

“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 cannot 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 equality contained in Articles 14 and 16 of the Constitution of India.”

16. Learned Full Bench of this Court in **Braj Kishore Prasad** (supra) while emphasizing the relevance of the date prescribed in the advertisement, underscored the strict compliance of the terms and conditions thereof and held that where the advertisement specifies the last date for filing of supporting or other documents, that date must be given effect to, and any document received after such date shall be rejected by the selecting authority. In appropriate cases where the selecting authority is of the view that the time for furnishing of documents should be extended, it may grant such extension by issuing a public notice to this effect so that all candidates may get the benefit of such extension. In the absence of any such extension granted by the selecting authority, the date/dates mentioned in the advertisement should be treated to be the last date for filing of documents, and no document shall be accepted thereafter.



17. The learned Full Bench further crystallized that in other cases where this Court is satisfied that a case of extreme hardship or injustice has resulted on account of factors beyond the control of the concerned candidate, this Court in exercise of its writ jurisdiction may grant relief in deserving cases. But in doing so, the Court must be satisfied that the candidate concerned has acted diligently, and is not guilty of delay or laches in taking necessary steps for procuring the requisite certificates, etc. However, no relief shall be granted where the requisite certificate is produced for the first time after the process of selection is complete and the selecting authority has made its recommendation.

18. Recently, the Apex Court in the case of *State of T. N. Vs. G. Hemalathaa*, reported in, (2020) 19 SCC 430 held that there must be strict adherence to the terms and conditions of advertisement.

19. Now coming to the facts of the case of *Dr. Babita Kumari* (supra) on which reliance has been placed by the learned Advocate for the Commission; it was the case wherein the petitioner was aggrieved with the Important Notice, bearing no. BSUSC/Vigya.-56/2022 (Khand-11)-475 Patna, dated 30.05.2024 in connection with Advertisement No. AP-PSYC-



16/20-21 to the extent whereby the petitioner despite having experience certificate issued by the Principal, Guru Nanak College was not accepted on account of the fact that the same was not counter signed by the Registrar of the concerned University. The Court referring to the relevant clause, including Clause 7.2 of the Advertisement, and taking note of the aforementioned decisions rendered by the Apex Court in the case of ***Bedanga Talukdar*** as well as ***Braj Kishore Prasad (supra)*** has observed that the petitioner failed to make any attempt to obtain a certificate in consonance with the requirement before the cut off date for submission of the experience certificate, duly counter signed by the Registrar, and further the experience certificate was not produced till the last date mentioned by the selecting authority, thus did not interfere in the writ petition and dismissed the same.

20. Now coming to the facts of the case, which are not in dispute that the petitioner submitted his experience certificate for rendering his services in the Indian Institute of Science, Bangalore as well as Indian Institute of Technology, Kanpur. But the certificates were issued under the signature of Chairman of the Department of Materials Engineering as well as Professor of the Department of Materials Engineering, Indian



Institute of Science, Bangalore and further the experience certificate for the period rendered his service in the Department of Material Science and Engineering, Indian Institute of Technology (IIT), Kanpur along with a certificate of the Joint Registrar (R & D), respectively.

21. Bare perusal of Clause 7.2 of the advertisement, there is a clear stipulation that if the period of Teaching/Post-Doctoral experience is less than one year then the marks shall be reduced proportionately and the benefit of teaching experience shall be given only on the basis of certificate counter signed by the Registrar of the University.

22. So far the certificate issued for the period rendered in the IISC, Bangalore is concerned, the same has been admittedly issued by the Chairman and Professor of the Department of Materials Engineering, Indian Institute of Science, Bangalore and there is nothing on record to support the fact that these two persons were authorized by a competent authority to issue certificates. Hence, it has rightly not been considered by the Commission. However, the certificate, which is issued by the Indian Institute of Technology (IIT), Kanpur is concerned, it is admitted position that the experience certificate has been duly issued by the Professor, Department of



Material Science and Engineering, Indian Institute of Technology (IIT), Kanpur along with the certificate issued by the Joint Registrar (Research and Development), IIT, Kanpur, who is said to be authorized signatory for such certificate. Thus, the claim of the petitioner for the experience certificate issued by the Joint Registrar, IIT, Kanpur cannot be ignored out rightly. The marking of the Academic, Research Publication, award in experience are to be considered by the experts of the Committee and it was not an automated formalities to be done by the Computer. Thus there cannot be any blanket rejection of all the experience certificates, which have even been duly issued by the authorized signatory, as in the present case is issued by the Joint Registrar of the IIT, Kanpur. The Certificate duly issued by the Joint Registrar/Registrar of a Premier Institute, like IIT Kanpur cannot be straightway rejected without inviting objection from the petitioner or the Institute concerned, in case any clarification is required.

23. This Court is conscious of the fact that all the certificates regarding teaching experience must be duly counter signed by the Registrar of the University. However, there may be some cases or instances, where at the relevant time, if the Registrar is not posted there or certain eventualities happened,



leading to his absence, in such circumstances if the work of the Registrar has been assigned to the incharge Registrar or the Joint Registrar can only for that reason the certificate or any order issued by the Joint Registrar or the authorized person is said to be illegal and invalid. This Court is of the opinion that action of the Commission based on such reason does not get validated under the law having no sanction. Reasoning is the essence of the rule of law

24. There is no doubt that the terms and conditions of the advertisement is scrupulously followed so that there is absence of any arbitrariness and all the candidates must be treated equally, but there may be a case of extreme hardships or injustice, which could resulted on account of circumstances beyond the control of the concerned candidate and thus this Court in exercise of its writ jurisdiction may grant relief in deserving cases.

25. It has also been informed to this Court that in course of verification of testimonials of some of the candidates in the subject of Physics in connection with Advertisement No. AP-PHYS-20/20-21 dated 21.09.2020, certificates of some of the candidates have been found to be forged and fabricated, which led to their cancellation of appointment and, as such, the



posts are still vacant. If this be the position, the Court feels it apt and proper to direct the Commission to consider the experience certificate of the petitioner, duly issued by the Joint Registrar of the IIT, Kanpur and award the marks accordingly. In case, the petitioner secured the cut off marks under his category, recommend his name accordingly to the concerned University for his appointment against the post of Assistant Professor (Physics).

26. It is expected that the entire exercise must be completed within a period of eight weeks from the date of receipt/production of a copy of this order.

27. The writ petition stands allowed to the extent indicated hereinabove.

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

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.12.2025
Transmission Date	NA

