

Dr. Rajesh Narayan Vs. State of Bihar and ors.

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Court : Patna

Decided On : May-09-2000

Judge : S.J. Mukhopadhaya, J.

Appeal No. : C.W.J.C. No. 7880 of 1998

Appellant : Dr. Rajesh Narayan

Respondent : State of Bihar and ors.

Disposition : Appeal Dismissed

Judgement :

S.J. Mukhopadhaya, J.

1. The petitioner has challenged the selection for appointment as made in favour of Respondents 6 to 9 as Senior Residents, Department of General Surgery and Reproductive Biology, Urology and G.I. Surgery under Indira Gandhi Institute of Medical Sciences, Sheikhpura, Patna (I.G.I.M.S. for short).

2. The sole question raised that the selection, in question, and appointment have been made solely on the basis of interview, without resorting to any other test, like written test.

3. It appears that in pursuance of a notice dated 27th June, 1998 published in the local daily 'THE TIMES OF INDIA', the petitioner and others applied for

appointment as Senior Resident in different Departments, as stated above. Three separate interview letters were issued for appointment of petitioner in respect of three Departments on 8th August, 1998. The interview held on 18th August, 1998 between 10.30 a.m. to 1.30 p.m. and second from 2.30 p.m. to 4.30 p.m., in which the contesting Respondents also appeared. After such interview, the contesting Respondents were selected and of the petitioner, this application has been preferred.

4. The Counsel for the petitioner mainly stressed on the time as allowed in favour of one or other candidates during the interview to suggest that the total five minutes' time was allotted to one candidate to make selection. The panel/merit list having prepared on the basis of marks obtained in the interview. Reliance was also placed on the decisions of the Supreme Court in the case of *Ajay Hasia v. Khalid Mujib* : (1981)ILLJ103SC and *Arti v. State of Jammu & Kashmir* : [1981]3SCR34 .

5. It was submitted that viva-vice examination though permissible as a test for selection, allocation of higher marks in interview is arbitrary and unreasonable.

According to the Counsel for the petitioner, the interview was formal as intellect and aptitude of a candidate could not have been assessed within five minutes, along with the verification of records/certificates.

6. The aforesaid submission was controverted by the Counsel for the Respondents. According to the Respondents, actually one candidate was interviewed for one or more posts. For example, the petitioner applied for three posts, whose merit was assessed during an interview. It was pointed out that for consideration of appointment against three posts of same rank but of different Departments, once documents verified, it was applicable for assessment of merit for all three posts and three times verification were not made, as suggested on behalf of the petitioner. It was further submitted that the petitioner having applied with open eye that the selection was to be made on the basis of interview, the cannot raise the aforesaid question having not selected, It was pointed out that no stipulation of other test was mentioned in the advertisement and the petitioner never challenged the same.

The Counsel also relied on the Supreme Court's Decisions in Secretary (Health), Department of Health & F.W. v. Anita Puri reported in : (1997)ILLJ110SC : Siaram v. Union of India and Ors. : AIR 1998 SC1470 : and Liladhar v. State of Rajasthan and Ors. : (1981)ILLJ297SC .

In the case of Siaram (supra), the Supreme Court held that the provision for marks in interview test need not and cannot be the same for admission to College and entry into the public service. In the case of service to which recruitment had necessarily to be made from persons of matured personality, interview test, may be the only way, subject to basic and essential academic and professional requirements. Subjecting such persons to written test might yield unfruitful and negative results. Thus appointment cannot be held to be illegal solely on the ground that the selection was made on the basis of interview.

7. It is not in dispute that the post of Senior Residents are specialized for which specialized qualification required as was laid down in the advertisement. In the matter of such selection of professional persons who will deal with the patients, if the selection is made by experts on the basis of interview, I find no illegality in the same.

This apart, the order of appointment of contesting Respondents having not enclosed, nor challenged, I find no reason to interfere with such appointments, which have been made for a tenure of three years.

8. I find no merit in the case. The writ, petition is, accordingly, dismissed.

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