

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3783 of 2021

=====

AKHILESH KUMAR SINGH S/o Late Parma nand Singh resident of Village
and P.O.- Basudhar, P.S.- Itarhi, District- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Bihar Patna
2. The State Appellate Authority, Bihar, Patna through its the Chairperson
3. The District Teachers Employment Authority Buxar through its the Chairperson
4. The District Magistrate, BUXAR
5. The District Education Officer, BUXAR
6. The District Programme Officer (Establishment) BUXAR
7. The Block Development Officer, Harhi, Buxar
8. The Block Education Officer, Itarhi, Buxar
9. The Headmaster, Middle School Basudhar, Itarhi, Buxar
10. Jiut ram S/o Sri Angad Ram resident of vill. and P.o.- Basudhar, P.s.- Itarhi, District- Buxar
11. Santosh Kumar Yadav S/o Sri Dadan Yadav resident of vill. and P.o.- Basudhar, P.s.- Itarhi, District- Buxar

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Parmeshwar Vishwakarma, Advocate
For the Respondent/s : Mr.Lalit Kishore (AG)
Mr. J.K. Roi-I-SC-13

=====

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 25-11-2024 Heard learned Advocate for the petitioner and learned
Advocate on behalf of the Respondents.

2. Sometimes in the year 2005, the petitioner was appointed as Shiksha Mitra under Basudhar Panchayat in the District of Buxar. In the year 2006, he became the Primary School Teacher or Block Teacher under UR Category. It is



stipulated that in order to be a Shiksha Mitra or Block Teacher a candidate must get 45% mark in Intermediate. The petitioner got 44.8% mark, therefore, on verification of his result in Intermediate Examination his service was terminated. He preferred an appeal before the District Appellate Authority, Buxar, which was dismissed. He also preferred an appeal before the State Appellate Authority under the Education Department, Bihar against the judgment of the District Appellate Authority. However, the appeal received the same fact.

3. In the instant writ petition, the decision passed by the State Appellate Authority under Education Department, Bihar is under challenge.

4. It is submitted by the learned Advocate for the petitioner that indisputably the petitioner got 44.8% mark in intermediate examination but the concerned authority rounded up the said mark into 45% and appointed him as a Teacher in UR category. The issue regarding rounding up of marks came up for consideration before the Hon'ble Supreme Court in *State of U.P. and another Vs. Pawan Kumar Tiwari and others* reported in *AIR 2005 Supreme Court 658*, the Hon'ble Supreme Court held in para-6 & 7 is hereunder:-

“6. The High Court has found mainly two faults with the process adopted by the State



Government. First, the figure of 46.50 should have been rounded off to 47 and not to 46; and secondly, in the category of freedom fighters and ex-servicemen, total 3 posts have been earmarked as horizontally reserved by inserting such reservation into general quota of 46 posts which had the effect of pushing out of selection zone three candidates from merit list of general category.

7. We do not find fault with any of the two reasonings adopted by the High Court. The rule of rounding off based on logic and common sense is: if part is one-half or more, its value shall be increased to one and if part is less than half then its value shall be ignored. 46.50 should have been rounded off to 47 and not to 46 as has been done. If 47 candidates would have been considered for selection in general category, the respondent was sure to find a place in the list of selected meritorious candidates and hence entitled to appointment.”

5. A bare reading of the above decision clearly shows that the figure 44.80% should have been rounded off to 45%. Petitioner's selection was made rightly by the concerned Authority holding the aggregate mark of the petitioner as 45% in intermediate. The decision of the Competent Authority could not be quashed by the Appellate Authority on the ground that the employment authority had no power to round off the mark



when a candidate gets more than .50% of the fraction mark. In such case it would be considered to be 01 mark in addition. At present there is no other dispute in the instant writ petition, therefore, this Court reference from dealing with the issues with regard to inter-se eligibility between the petitioner and respondent No.10 & 11.

6. For the reasons stated above, the respondents are directed to reinstate the service of the petitioner within 60 days from the date of communication of this order.

7. Accordingly, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

mdrashid/-

U			
---	--	--	--

