

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7920 of 2008

Sadanand Yadav, son of Late Biran Yadav, resident of village- Usari,
P.O.+ P.S. Gogari, District-Khagaria

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary, Agriculture Department, Government of Bihar.
3. The Joint Agriculture Director, Useful Research, Bihar, Patna
4. The Assistant Agronomist Useful Research Centre, Chautham, Khagaria
5. The District Agriculture Officer, Khagaria

.... Respondents

Appearance :

For the Petitioner/s : Mr. RAJEEV KR.SINGH
Mr. Niranjan Kumar
Mr. Nawal Kishore Singh
For the Respondent/s : Mr. AC to AAG-4

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 01-04-2015

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Heard learned counsel for the petitioner and Sri
Ashok Kumar, learned AC to AAG-4.

2. The petitioner , invoking writ jurisdiction of this
Court under Article-226 of the Constitution of India, has
prayed for quashing of an order, contained in Memo No.165
dated 04.03.2008 issued by the Joint Agriculture Director,
Useful Research, Bihar, Patna (Annexure-1 to the writ
petition), whereby the petitioner appointment was declared as
illegal and cancelled. By the said order, the appointment of
the petitioner along with others has been cancelled.



3. Short fact of the case is that the petitioner claimed that he was appointed pursuant to local advertisement on Class-IV post in the Department of Agriculture, Useful Research, Bihar, Patna. Initially, the petitioner was appointed provisionally however he continued for a long time. Even during the service period, the petitioner was also granted First Time Bound Promotion vide Annexure-6 to the writ petition i.e. Memo No.283 dated 11.03.1998.

4. It has been argued by learned counsel for the petitioner that suddenly, in the year 2008, the Respondent State has come out with the impugned order cancelling the appointment of the petitioner on the plea that the petitioner's appointment was illegal. It has been argued by learned counsel for the petitioner that even though the petitioner continued for about 22 years in service and during his service period, he was granted First Time Bound Promotion, without giving any opportunity to the petitioner to explain regarding appointment, the impugned order cancelling the appointment of the petitioner has been issued. Accordingly, it has been submitted that the order impugned is liable to be set aside only on the ground of violative of principle of *audi alteram partem*.



5. In this case, a counter affidavit has been filed on behalf of Respondent nos. 1 to 3. Learned State Counsel submits that the appointment of the petitioner was itself illegal. He has also referred to the averments made in paragraph-8 of the counter affidavit that no notice/show cause was required to be issued in view of nature of appointment. He emphasised that without following any procedure, the petitioner was appointed on Class-IV post and, as such, he justifies the order of termination. He further submits that initially, the petitioner was appointed provisionally for three months. However, learned State Counsel does not dispute that the petitioner continued in service for the period, as claimed by the petitioner. He has also denied that any advertisement was made for such appointment.

6. Besides hearing learned counsel for the parties, I have also perused the materials available on record. In view of the fact admitted by the Respondents that no notice was issued before issuance of cancellation order of appointment, the Court is of the opinion that there is no need to examine the matter in detail since the order impugned is itself contrary to the settled principles of natural justice. Since no notice was issued, the Court has left with no option, but to quash the

impugned order. Accordingly, the order impugned to the extent of petitioner at Serial no.10 vide Annexure-1 is hereby set aside.

The writ petition stands allowed.

(Rakesh Kumar, J)

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