

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3147 of 2015

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1. Md. Afsar Son of Late Naseeruddin Resident of Village - Tariyama, P.S. - Simri Bakhtiyarpur , District- Saharsa, (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary , Personnel And Administrative Reforms Department , Govt. of Bihar, Patna.
3. The Commissioner , Koshi Division, Saharsa.
4. The District magistrate , Saharsa.
5. The Deputy Collector , Establishment , Saharsa.
6. The Sub-Divisional Officer, Simiri Bakhtiyarpur, Saharsa.
7. The D.C.L.R. Simri Bakhtiyarpur, Saharsa.
8. The District Employment Officer, Saharsa.
9. The Deputy Director , Employment , Koshi Division, Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. A. B. Ojha, Sr. Advocate
Mr. Anuj Kumar

For the Respondent/s : Mr. Sanjay Mandal

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 24-04-2015

24.04.2015

Heard learned counsel for the parties.

Annexure-1 is the order passed by the District Magistrate, Saharsa, which is dated 18.11.2014. By virtue of this order claim for regularization of the petitioner as a Jeep Driver has been rejected. Petitioner wants quashing of this order as well as the direction upon the respondents to appoint him.

In the writ application, many a things have been pleaded. Even allegation of pick and choose, arbitrariness in selection etc. has been alleged. Such



allegations in the opinion of the Court is mostly made but not made out. From reading of Annexure-1, it is evident that steps were taken on the basis of a directive, dated 31.07.1997, issued by the Department of Personnel and Administrative Reforms to regularize the services of persons employed in the various regional offices under the District Magistrate, Saharsa. A committee was formed. The committee decided to advertise and seek response of eligible candidates, desirous of being regularized on the post they held. Advertisement No. 33 of 1997 was published in a newspaper called "Aryawart". Ten days time was given to eligible candidates to respond. 131 applications were received. The applications were processed and appointment made on the seven vacant posts of Drivers. The claim of the petitioner was not considered for the reason that his application did not reach within the time.

Submission of the counsel for the petitioner is that he had posted his application either or before 24.12.1997. Once he has posted his application, his obligation is over and responsibility of the respondents begin, because the moment an application is dropped in the letter box it is considered as communication to the response.

The other submission is that if time was fixed till 24.12.1997, ten days will be 25.12.1997. Further submission is that additional set of 33 applications were also forwarded by the Employment Exchange. The respondents are silent as to what happened to those applications.

The various principles of law cannot be adopted for convenience of litigants. What may be true for an offer and acceptance under the Contract Act may not apply to a case of consideration for regularization. The respondents had to fix a date within which the applications had to be invited and considered. The petitioner should have been vigilant enough to respond well within time. It cannot be a case that there was not adequate information because 131 persons had applied within the window of 15.12.1997 to 24.12.1997. All these fanciful arguments are obviously being made with the object of getting a window of consideration which is quite speculative. Since it cannot even be known that against the vacancy, which was limited to 7, petitioner would have been one of the selected candidates after fulfilling the criteria.

It is a speculative kind of writ application, which does not create a right in favour of the petitioner.



Reasoning and rational provided by the respondents for non consideration of the claim of the petitioner seems to be cogent and valid. In fact the blame does not lie with the respondents but lies with the petitioner because he was not vigilant enough to make his application well within the time, so that his claim could have been considered.

Writ application is required to be dismissed and no direction can be issued even otherwise at such belated stage when the available posts, 7 in numbers, have already been filled up years ago.

Writ application is dismissed.

(Ajay Kumar Tripathi, J.)

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