

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21720 of 2014

=====

1. Mukesh Kumar Son of Late Ram Ratan Singh Resident of village/Mohalla-Pachadha, post Office-Pachadha, Police Station-Hishua, District-Nawada..

.... Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Public Health Engineering Department, (P.H.E.D.), Technical, Secretariat, Patna.
2. The Principal Secretary, Health Engineering Department, Govt.of Bihar, Technical, Secretariat, Patna.
3. The Secretary, Department of Finance, Govt.of Bihar, Main Secretariat, Patna.
4. The Engineer in- Chief, Public Health Engineering Department, Govt.of Bihar, Technical, Secretariat, Patna.
5. The Chief Engineer(Mechanical), Public Health Engineering Department, Govt.of Bihar, Technical, Secretariat, Patna.
6. The Superintending Engineer, Public ;Health Engineering Department, Circle, Darbhanga.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Md.Imteyaz Ahmad

For the Respondent/s : Mr. KUMARI AMRITA

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 13-04-2015

13.04.2015

Heard learned counsel for the parties.

The speaking order is Annexure-9, dated 08.11.2014. The reason for passing this order has a history behind it and, therefore, in terms of a direction issued in C.W.J.C. No. 10939 of 2014 even the petitioner was given an opportunity of hearing and the order so passed is under challenge.

There is no dispute with regard to the fact that the petitioner was an appointee under compassionate head under the State Government circular, governing



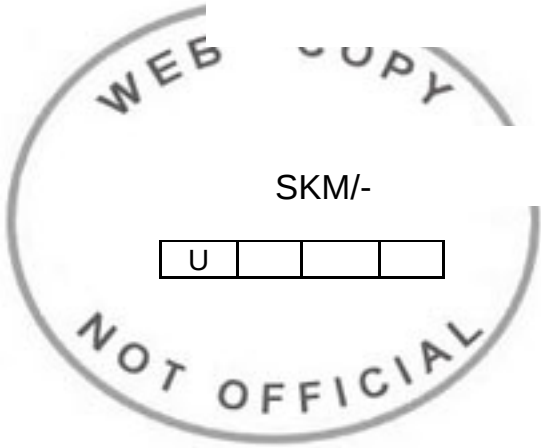
such issue, which has already been talked about even in the impugned order. The appointment of the petitioner was to be made on a fixed pay-scale of Rs. 3050-4590/- on the post of a lower division clerk. Appointment letter was issued to the petitioner as Junior Accounts Clerk, a post which is not available to compassionate appointees. The pay-scale, which the petitioner obviously got, was a higher pay-scale by virtue of the post offered to him illegally. Such posts are not required to be filled up by compassionate appointee.

If this was the background, under which the impugned order has been passed. Petitioner cannot be allowed to hold a post higher than what his entitlement was that too when such appointment had been done in violation of Article 14 and 16 of the Constitution of India. It was a case of compassionate appointment and not appointment by virtue of merit by following regular recruitment process.

In view of the same, the explanation or the confusion, which the learned counsel wants to create by referring the various circulars, is with regard to various pay-scales, to which a Senior Accounts Clerk and a Junior Accounts Clerk is entitled to, not a compassionate appointee. There is no infirmity with the decision,

contained in Annexure-9.

Writ application is, therefore, dismissed.



(Ajay Kumar Tripathi, J.)