

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17377 of 2013

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1. Ranjit Kumar Son Of Late Shyam Kumar Jha Resident Of 15 - Mig,
Hanuman Nagar, Police Station - Patrakar Nagar, District - Patna

.... Petitioner/s

Versus

1. The Managing Director Bihar State Credit And Investment Corporation,
Indira Bhawan 4th Floor Ram Charitra Singh Path, Patna
2. Bihar State Credit And Investment Corporation Through Its Deputy
Manager (Administration), Indira Bhawan 4th Floor Ram Charitra Singh
Path, Patna
3. The Deputy Manager (Administration), Bihar State Credit And
Investment Corporation, Indira Bhawan 4th Floor Ram Charitra Singh
Path, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Tiwary, Adv.
Mr. J. Prasad, Adv.

For the Respondent/s : Mr. Nirmal Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

6 22-01-2015 Heard learned counsel for the petitioner and the
respondents.

In this case, prayer has been made for quashing the
order dated 29th July 2013 passed by respondent no.3 by which the
representation dated 13th May 2013 for his reinstatement in service
has been rejected on the basis of decision taken by Managing
Director and further prayer has been made for quashing the
resolution of Board of Directors dated 28th June 2013 by which the
Board discussed, noted and confirmed the affirmed the order of
Managing Director.



The short facts of the case is that the petitioner was appointed on compassionate ground on 20th June 1994 by the competent authority and he worked in the Corporation continuously as Incentive clerk. As per the order of the Corporation, the petitioner has performed the work in the Managing Director Cell during the period of Mr. K.K.Pathak, IAS. He was given the charge of computerization in the pay scale of Incentive clerk. In the year 2005 a vacancy of Assistant Manager was advertised by the Corporation and as the petitioner fulfilled all the requisite qualification he applied for the same.

Petitioner appeared before the Selection Committee, accordingly, he was selected to the post of Assistant Manager and a letter of appointment dated 14th December 2005 was issued, he joined and started working on the said post. After some time, petitioner was reverted back to the post of Incentive Clerk that caused revenue loss to the petitioner and he tendered his resignation from the post of Incentive clerk on 1st July 2009 and his resignation was accepted on 7th July 2009 by the Managing Director.

The petitioner realized his mistake, he filed the application on dated 10th October 2011 and on 22nd November 2011 for withdrawal of his resignation.



The Managing Director to the Corporation sent the matter of the petitioner for consideration of the Board of Directors which constituted the Committee in its meeting dated 30th March 2012 to examine the case of petitioner. The Board has also authorized the Managing Director to constitute a 3-Member Committee. The Corporation, vide letter no.260 dated 23rd March 2012 constituted the Committee but that Committee did not give any report.

The case of petitioner was considered by the Board in its Resolution dated 28th June 2013, which rejected the claim of the petitioner, accordingly, vide order dated 29th July 2013 i.e. impugned order the claim of reinstatement was rejected (Annexure-10 and Annexure-10/1).

Counsel for the petitioner submits that as the petitioner was appointed by the Board of Director, even acceptance of his resignation by the Managing Director before its withdrawal will hardly affect his case as the body which has appointed him, only could have accepted his resignation and as such the acceptance of the same by the Managing Director will not be treated to have been validly accepted the resignation, which has been emphatically disputed by the counsel for the Corporation and it has been submitted that the petitioner was

appointed by the Managing Director and he has all authority to accept his signature on the plea that the authority which has appointed has a right to terminate him as provided u/s 16 of the General Clauses Act.

The question is who has appointed the petitioner. To substantiate his submission, petitioner has filed the supplementary affidavit as well as the Corporation has also filed a supplementary counter affidavit. In the supplementary counter affidavit the Corporation has annexed the appointment letter by which petitioner was appointed to the post of Incentive Clerk (Annexure-D to the supplementary counter affidavit) from where it appears that it is the Managing Director of the Corporation who has issued letter No. 892 dated 18th June 1994 but the counsel for the petitioner submits that before issuance of the appointment letter his case was placed before the Board of Director which approved the appointment of the petitioner, accordingly, the Managing Director was properly authorized to take action.

On the strength of proceeding of the Board No. 121/20 (Annexure-13) the petitioner has taken a plea that it will be deemed that he was appointed by the Board of Directors. On perusal of the proceeding of the Board of Directors, it only appears, has granted approval and the Managing Director was

authorized to act in accordance with law. It is the Managing Director who has passed the order of appointment and in such view of the matter, this cannot be said that the petitioner was not appointed by the Managing Director.

In this view of the matter, the contention of the petitioner that the acceptance of resignation by the Managing Director is not valid, cannot be accepted in the facts and circumstances of the case.

This Court does not find any merit in this petition.

Accordingly, this petition is dismissed.

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(Shivaji Pandey, J)