

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1392 of 2012

IN

Civil Writ Jurisdiction Case No. 7838 of 2007

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1. Brij Kishore S/O Sri Indradev Mahto Resident Of Village Banwari
Amnour, P.S. Reet Ke Tola, Via Akma, District Chapra, Bihar At Present
T.N. 2018, Hindustan Liver Limited, Unit No. 2, Sumerpur Factory Complex
Plot A 1-2 Upside Industrial Area, Bharua Sumerpur, District Hamirpur, U.P.

.... Appellant/s

Versus

1. The State Of Bihar.
2. Secretary Bihar Staff Selection Commission Patna, Post Veterinary
College, Patna.
3. The Director Employment And Training New Secretariat, Patna, Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. JITENDRA KUMAR PANDEY

For the State : Mr. Prabhat Ranjan, AC to GP-12

For the Commission : Mr. S.S. Sundaram, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 07-04-2015

The appellant, who was the writ petitioner, had applied for the post of Vocational Instructor (Fitter) as against Advertisement No. 0706 of the year 2006 under O.B.C. quota. Consequent to written examination, he made it to the merit list under the general category itself, but when called for interview, he was required to furnish experience certificate which he had. The experience certificate shows him to be Brij Kishore Mahto, son of Indradev Mahto, but in his application to the Staff Selection Commission (hereinafter referred to as the 'Commission'), he had made his application as Brij Kishore, son of Indradev Mahto, accordingly, he was granted five days time to get a fresh certificate with correct name. Let it be noted that the certificate was issued by Hindustan



Liver Limited showing the petitioner-appellant to be working at their factory in the district of Hamirpur (U.P.). When he went there for correction, the officer was absent and fresh certificate could not be issued. He accordingly, filed an affidavit before the Staff Selection Commission pointing out that Brij Kishore Mahto, son of Indradev Mahto was the same as Brij Kishore, son of Indradev Mahto, the rest of particulars being the same, he should be considered. He also stated that the Officer having on leave, the certificate could not be amended. He then filed a fresh certificate issued by the said company, but that was also not acceptable as this time the Commission wanted him to submit the amended original certificate. In this way, the time expired and petitioner-appellant was denied selection and appointment.

The writ petition was accordingly filed in the year 2007 and was taken up on 10.2.2012, when it was summarily dismissed, though noticing that only surname was missing. If this was so plain and simple and understood by the learned single Judge, we fail to see why the learned single Judge refused to entertain the writ petition.

In our view, the case is as simple as that. It is the surname that was missing. For rest of the particulars, e.g., parentage etc., there was no dispute. It was the fit case in which mandamus ought to have been issued.

We would, thus, set aside the order of the learned single Judge and allow the L.P.A., but for the reason that this advertisement was issued in the year 2006, it is nine years thereafter. The petitioner had not sought protection by way of any interim order. After nine years, the said selection process would have ended long ago and no one

knows as to the current position, as there is nothing on record to show that pursuant to the said selection process, there is any vacancy still lying, which in normal probability, would not be there. In that view of the matter, even though, we find that the order of learned single Judge was wrong, we are unable to help the writ petitioner. This appeal is accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

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