

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10090 of 2008

=====

Shailendra Kumar, son of Late Rameshwar Singh, Resident of village- Manika, P.S.
Mushahari, District Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Industry Department, Government of Bihar, Patna
3. The Additional Secretary, Industry Department, Government of Bihar, Patna
4. The Director, Industry Department, Government of Bihar, Patna
5. The Managing Director, District Industries Centre, Muzaffarpur, District
Muzaffarpur
6. The Accountant General, Bihar, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr Rajendra Prasad Singh, Sr. Advocate
Mr Md. Anis Akhtor

For the Respondent/s : Mr K.K.Singh, AC to SC 4
Mr Ram Kinker Choubey

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 11-08-2015

Petitioner was appointed initially in a non- government organization. The organization known as District Industries Centre was running on the funding made by the Union of India. When it was sought to be taken over by the State of Bihar, the services of the employees was not taken over. Many of them approached the High Court by filing writ applications. The writ applications were heard together by a learned Single Judge and were decided in favour of such petitioners for their absorption. Matter travelled to a Division Bench which refused to interfere with the order of the learned Single Judge

and even the SLP of the State was dismissed. Thereafter, the exercise of adjustment of such employees started.

As per assertion of the petitioner, he was engaged to work as Economic Investigator in the erstwhile District Industries Centre. Annexure- 1 is said to be that order. This Court, however, would like to observe that this was not the appointment letter of the petitioner under the District Industries Centre but he was sent by the District Industries Centre to an organization known as Muzaffarpur Development Agency. Therefore, that cannot be said to be his actual post and position under the Bihar Industries Centre.

The respondent State authorities especially the Department of Industry as a fall out or follow up to the judicial adjudication issued the order dated 19.4.2006. Petitioner was adjusted on an available post with a pay scale indicated in Annexure- 6. The post given to the petitioner is Assistant Receptionist. Petitioner accepted the appointment letter, joined and thereafter raised objections that he has been adjusted or accommodated on a lower post, if not a lower pay scale. He wants a direction upon the respondents to give him corresponding post and position and pay scale.

The right of the petitioner to be absorbed under the State was created because of the judicial order. This Court has not found any observation or direction that the absorption has to be made in



terms of demand and expectation of the petitioner. The status of the petitioner in the non- governmental organization in no way creates an obligation upon the State authorities to extend the same benefit to an absorbed employee even if such post and position and opening may not be available under the State. By virtue of the order of the learned Single Judge, exercise was done by the Industries Department and an opening was given to the petitioner by virtue of which from a non- entity he becomes a government servant with all the perks and privileges involved thereto.

The order of the learned Single Judge, therefore, has to be read in the context and the given facts and background under which it came to be passed. It is not evident from reading of the learned Single Judge's order that the absorption was required to be made on 'as is where is kind of basis'.

The stand of the State is in similar terms. They have indicated in the counter affidavit that the petitioner had no right and the State had no obligation to extend such kind of benefit since they were hired by a non-government organization. It was by a judicial order in their favour that their services were required to be taken over and they were required to be absorbed as a government servant. The organizational adjustment available under the State has been made with regard to such employees.

Unfortunately, it does not satisfy the petitioner and his ambition has found wings. The change of status to a government servant has made him more bold to demand higher perks and privileges than what was offered to him in terms of Annexure- 6.

The State has done the best which was available for such kind of employees. Looking at the background under which such persons came to be taken on the rolls of the State, this Court is not willing to grant or confer a benefit higher than what was conferred by Annexure- 6 because they were not employees of any organization or agency of the State when they came to be hired in the very first place.

Writ application, therefore, has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

sk

U			
---	--	--	--