

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.5487 of 2013

In
Miscellaneous Jurisdiction Case No. 3925 of 2011

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Shatrughan Kumar Bharti Son of Late Kanhai Mahto R/O Village-Beilia,
P.S.-Kutumba, District-Aurangabad (Bihar)

.... Petitioner

Versus

1. The State of Bihar through the Secretary, namely, Sri Abhijit Sinha, Human Resources Deptt, Govt. of Bihar, Patna
2. The Director, Primary Education Deptt, Govt. of Bihar, Patna, namely, Sri Ashutosh
3. The Regional Deputy Director of Education, Magadh Division, Gaya, namely Sri Medho Das
4. The Director, National Rural Employment Compassionate Appointment Committee, Aurangabad, Bihar, namely Sri Raj Mukul
5. The District Magistrate cum Chairman, District Compassionate Appointment Committee, Aurangabad, Bihar, namely, Sri Abhijeet Kumar Sinha
6. The District Superintendent of Education, now District Education Officer, Aurangabad, Bihar, namely Sri Ranjeet Prakash Narayan Sinha

.... Opp.Parties.

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar

For the Respondent/s : Mr. Manoj Priaydarshi

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

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5 16-01-2015 Heard learned counsel for the petitioner and learned
AC to SC-13.

The present petition has been filed with a prayer to initiate contempt proceeding against Opp.Parties on an allegation of wilful disobedience to an order dated 23.07.2010 passed in C.W.J.C.No.3104 of 2007 as well as order dated 10.05.2013 passed in M.J.C.No.3925 of 2011. The petitioner had initially



approached this Court by filing a writ petition vide C.W.J.C.No.3104 of 2007 claiming his appointment against Class-III post instead of Class-IV post on the ground that the petitioner was having qualification for being appointed against Class-III post on compassionate ground. It was claimed that other four similarly situated persons, who were initially appointed against Class-IV post, were appointed against Class-III post and, as such, the petitioner was also entitled to get the same relief. The writ petition was disposed of. It would be appropriate to quote the order dated 23.07.2010 in C.W.J.C.No.3104 of 2007 herein below:

“Heard learned counsel for the petitioner and learned counsel for the State.

Petitioner was earlier recommended and appointed on compassionate ground on a class IV post. He was having the qualification for Class III post. Therefore, he joined the Class IV post and submitted a representation in 2006, vide Annexure-6, for consideration of his appointment against Class III post.

Learned counsel for the petitioner submitted that the said representation is still pending and has not been considered by the respondents. He also points out from the proceeding of the District Compassionate Committee, as contained in Annexure-7, that the Committee reconsidered the case of four candidates, who were earlier recommended for Class-IV post and



resolved to appoint them against Class-III post, as they were having requisite qualification for the post. This Court is of the view that the application of the petitioner as contained in Annexure-6 should be considered in the like manner by the Compassionate Committee in the next meeting and a decision should be taken on the same consistent to the approach of the Compassionate Committee in this regard.

The writ application is disposed of with the aforesaid observations and directions.”

It appears that in view of order of the writ court, the case of the petitioner was also considered and he was adjusted against Class-III post. Subsequently, the petitioner approached this Court by filing a petition for initiating contempt proceeding vide M.J.C.No.3925 of 2011, wherein a plea was taken that the case of the petitioner was not considered exactly like other four persons, who were similarly situated. A claim was made that other four persons after being adjusted against Class-III post were granted benefit of continuity of service from their initial appointment against Class-IV post and, as such, the petitioner was also entitled to get similar relief. A Bench of this Court by order dated 10.05.2013 disposed of the same, which is quoted herein below:

“Finally orders have been issued for appointment of the petitioner on class III post, vide office order contained in Memo No.408 dated 09.04.2013 issued

under the signature of the Regional Deputy Director of Education, Gaya, a copy whereof is Annexure-4 with the rejoinder of the second show cause filed by opposite party no.6.

Now the grievance of petitioner is that since initially cases of petitioner along with Santosh Kumar, Amarendra Kumar Tripathi, Bhimendra Chaudhary and Dhananjay Kumar were considered by the District Compassionate Committee for appointment on compassionate grounds, all of them were having same qualification, were appointed on class IV posts. Subsequently, in view of their qualifications, other persons were upgraded to class III posts whereas petitioner was left out. Hence, he filed a representation and the same having not been considered, he had moved this Court. This Court disposed of the writ application with direction to the respondents to consider his representation in the like manner, as was done in the cases of the said other persons.

The submission is that the said other persons have been given continuity of service from the date they joined on class IV posts initially on the recommendation of the Compassionate Committee. Hence, petitioner should also be given continuity of service whereas the order of the Regional Deputy Director of Education shows that petitioner has been debarred from claiming any benefit of his previous period of appointment on class IV post.

It goes without saying that once this Court had



directed the opposite parties to consider the representation of petitioner and to pass orders in the like manner as was done in the cases of said other persons, petitioner is entitled for equal treatment. Hence, if other persons have been given benefit of continuity of service, benefit of annual increments and pay revision from the initial date they joined on class-IV post, petitioner will also be entitled for the same. Any discrimination meted out to the petitioner cannot be full compliance of the orders of this Court.

Therefore, this contempt application is disposed of with a word of caution to the opposite parties that they should comply the said order of this Court passed in the writ application in its true letter and spirit.”

Now, it has been pleaded that the petitioner despite the order passed on 10.05.2013 has not been given the same benefit as other four persons were granted. Names of four persons have been categorically mentioned in the order dated 10.05.2013, which has been quoted herein above.

In this case, separate show causes on behalf of Opp.Party no.5 and Opp.Party no.3 have been filed. In the show cause filed on behalf of Opp.Party no.5, some new fact has been brought on record. In the show cause, an order dated 11.04.2011 passed in C.W.J.C. No.15917 of 2007 has been brought on record as Annexure-D. In the said case, one of the similarly situated



persons had claimed for similar relief. A Bench of this Court considering the fact that once on compassionate ground, a recommendation was made by the Compassionate Committee, at subsequent stage the Compassionate Committee was not required to pass order of any recommendation for adjusting the same person against Class-III post. This Court, considering the fact that same was incorrect action, without granting any relief to the petitioner dismissed the writ petition (i.e. C.W.J.C.No.15917 of 2007) with certain direction to concern authority to re-examine the case of all such persons. Subsequently, by order dated 06.05.2013 i.e. Annexure-F to the show cause filed on behalf of Opp.Party no.5, all four persons, regarding whom similarity was claimed by the petitioner, were reverted to Class-IV post.

Learned counsel for the petitioner by way of referring to Annexure-8 to the rejoinder to the show cause filed by the petitioner on 5th January, 2015, submits that out of four persons, one Dhananjay Kumar, who was also reverted to Class-IV post, had approached this Court invoking writ jurisdiction vide C.W.J.C.No.7456 of 2013 and a Bench of this Court by order dated 24.07.2014 has stayed the order of reversion. Learned counsel for the petitioner has reiterated that whatever development had taken place, those developments had taken effect subsequent

order passed by the writ court and, as such, the petitioner is entitled to get same relief.

On perusal of the materials on record, the Court is of the opinion that since subsequently the appointment of similarly situated four persons, who were given benefit of Class-III post from Class-IV post, has already been cancelled, it cannot be a case for initiating contempt proceeding on the aforesaid order.

I do not find any ground to proceed with the matter.
The petition stands dismissed.

(Rakesh Kumar, J)

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