

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10153 of 2014

Trihuwan Jha S/o Late Radhika Raman Jha, resident of Village Nawada, Via Bhera, District Darbhanga, at present working as Upper Division Clerk in the office of the Director of Census Operations, Bihar, Boring Canal Road, Patna.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, Government of India, New Delhi.
2. The Registrar General of India, Kotah House Annexe, 2/A, Mansingh Road, New Delhi - 110011.
3. The Director of Census Operations, Bihar, Boring Canal Road, Patna - 800001.
4. The Joint Director of Census Operations, Bihar, Boring Canal Road, Patna - 800001.
5. The Deputy Director of Census Operations, Bihar, Boring Canal Road, Patna.
6. The Assistant Director of Census Operations, Bihar, Boring Canal Road, Patna - 800001.
7. Dinesh Prasad S/o Chhotu Sao r/o village Kalyanpur, P.O. AND P.S. Fatuwa, District Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Jha, Sr. Advocate
Mr. Sanat Kumar Mishra, Advocate
For Union of India : Mr. S D Sanjay, Addl. Solicitor General
Mrs. Nivenita Nirvikar, CGC

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 21-04-2016

The order dated 30th April, 2014 passed by the Central Administrative Tribunal, Patna Bench, Patna, in O.A. No. 920 of 2003 is the subject matter of challenge in the present writ petition.

This case has a long chequered history. The petitioner earlier filed Original Application No. 528 of 1993 under Section 19 of the Administrative Tribunals Act, 1985 seeking quashing of



termination order dated 11.04.1994 by which service of the petitioner as Lower Division Clerk (L.D.C.) was terminated. The said O.A. was allowed on 24th May, 1995, wherein it was held that the petitioner shall be given notional continuity of service from 30th April, 1981, i.e. the time of entry in service as Stenographer and that he shall be entitled to arrears of pay and allowances admissible to L.D.C. as on and from 11th April, 1994.

Some of the L.D.Cs. filed another Original Application before the Tribunal, i.e. O.A.No. 82 of 1997. The petitioner was promoted as Upper Division Clerk (U.D.C.) vide order dated 20th April, 1999 with the stipulation that such promotion shall be subject to final decision of O.A.No. 82 of 1997 and M.A. No. 16 of 1998.

O.A.No. 82 of 1997 was allowed on 28th September, 2001 filed by nine applicants who were initially appointed as L.D.Cs. in the year 1980-81. The Tribunal ordered to the following effect:-

“The application is allowed. The services of the applicants as Lower Division Clerks shall be regularized with effect from 28.7.1985. The respondents shall issue order of their regularization within a period of three months from the date of communication of this order. There shall be no order as to costs.”

CWJC No.98 of 2002 filed by the Union of India against the above stated order was dismissed by this Court on 4th January, 2002. Subsequently, review applications were filed by the applicants



before the Tribunal as well as by the present petitioner were dismissed by the Tribunal on 22nd April, 2004. Another writ petition challenging the review was dismissed on 19th January, 2005. Admittedly, the parties are in Supreme Court against the order passed by the Tribunal and the order passed by the High Court, wherein the petitioner is one of the respondents.

The petitioner filed O.A. No. 920 of 1999 on the ground that he cannot be reverted to the post of L.D.C. The said O.A. has been dismissed by the order impugned in the present writ petition.

Learned counsel for the petitioner vehemently argued that while reverting the petitioner to the post of L.D.C., the petitioner has not been given any opportunity of hearing. Therefore, it violates the principles of natural justice. He placed reliance on the judgment of the Supreme Court in the case of **Canara Bank vrs. Debasis Das (AIR 2003 SC 2041)**.

We have heard learned counsel for the parties and found no merit in the writ petition. The promotion of the petitioner was specifically with the condition that it shall abide by the decision in O.A.No. 82 of 1997. In the said original application, the other applicants have been given seniority as L.D.C. with effect from 28th July, 1985, i.e. before the promotion of the petitioner as L.D.C. Therefore, the petitioner's rank lowered in seniority than the applicant

in O.A.No. 82 of 1997. Since the petitioner ranks junior to the other applicants, necessary consequences is that he has to make way for his seniors. Thus, he has been reverted in terms of the order passed by the Tribunal in O.A. No. 82 of 1997. Therefore, we do not find there is any violation of the principles of natural justice as the promotion itself was subject to the order passed by the Tribunal in which he was a party respondent. Not only there was a decision against him but even the review application stands dismissed.

In view thereof, we do not find any error in the order dated 30.04.2014 passed by the Tribunal in O.A. No. 920 of 2003. The present writ petition is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

mrl.

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