

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13071 of 2014

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Mani Bhushan Singh, Son of Late Laxmi Narayan Singh, resident of village - Azampur, P.O. Azampur, Via - Deshri, P.S. Deshri, District - Vaishali.

.... Petitioner

Versus

1. The Union of India through the Chief Postmaster General, Bihar Circle, Patna.
2. The Director of Postal Services, Patna Region, Patna.
3. The Superintendent of Post Offices, Vaishali Division, Hajipur.
4. Smt. Anju Devi, Wife of Abhay Kumar, resident of village - Azampur, P.O. Azampur, Via - Deshri, P.S. Deshri, District - Vaishali.
5. The Assistant Superintendent of Post Offices, East Sub-Division, Hajipur.
6. Sri Ravi Shankar Prasad @ Ravi Shankar Singh, Son of Sri Baidyanath Singh, resident of village - Azampur, P.O. Azampur, Via - Deshri, P.S. Deshri, District - Vaishali.

.... Respondents

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Appearance :

For the Petitioner : Mr. Gautam Bose, Sr. Advocate.
Mr. Ajay Kumar, Advocate.
Mrs. Sanghmitra Ghosh, Advocate.

For the Respondents : Mr. S.D. Sanjay, A.S.G.
Mr. Ravinder Kumar Sharma, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 12-07-2016

Heard learned counsel for the parties.

2. The order dated 11th of March, 2014 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short “the Tribunal”) in O.A. No. 663 of 2009 is subject matter of challenge in the present writ application, whereby an Original Application filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985 remained unsuccessful.

3. The petitioner challenged the order dated 19th of November, 2009 and 4th of November, 2009, whereby his services were terminated.

4. The facts in brief are that a requisition dated 7th of January, 1998 was sent by the Superintendent of Post Offices, Vaishali Division, Hajipur to the District Employment Officer, Hajipur to sponsor the name of at least three candidates for employment as Extra Departmental Branch Postmaster at Azampur. It appears, in pursuance of the said requisition, names of the petitioner and that of Respondent No. 6 were recommended. Smt. Anju Devi was also a candidate. Respondent No. 6 was appointed on 18th of May, 1998.

5. The petitioner challenged the appointment of Ravi Shankar Singh through O.A. No. 494 of 1998. The said petition was allowed holding that Ravi Shankar Singh has not submitted proof of possession of landed property in his exclusive name and thus, he was not eligible for appointment. After holding so, the Tribunal passed order to the following effect:-

“This application is allowed. The impugned memo dated 18.5.1998 appointing respondent no. 4 as EDBPM, Azampur BO is hereby quashed and set aside. The respondents shall make selection of a candidate for appointment to the post out of the candidates who were already sponsored by the employment exchange, Hajipur in response to the requisition dated 7.1.1998,

and make the appointment as soon as possible, and preferably within four months from the date of communication of this order. No costs.”

6. The said order was challenged by Ravi Shankar Singh before this Court vide C.W.J.C. No. 1530 of 2001 but the writ application was dismissed. It is thereafter, the petitioner was appointed on 14th of January, 2005. The appointment of the petitioner became subject matter of consideration in O.A. No. 783 of 2004 at the instance of Anju Devi. The challenge was, *inter alia*, on the ground that she had obtained more marks than the present petitioner. In the said Original Application, the Tribunal directed the Chief Post Master General to call for the records of the selection and pass a speaking order treating the Original Application as a representation. The operative part of the order reads as under:-

“We, accordingly, dispose of this OA by giving a direction to Chief PMG to call for the records of this selection and pass a speaking order treating this OA as representation within three months of the receipt of the order. We wish to make it clear that we have expressed no opinion on the merits of the case. A copy of the speaking order will be served on the applicant. No costs.”

7. It is thereafter, the Chief Postmaster General passed an order on 4th of November, 2009 finding that the appointment of the petitioner has not been made by observing relevant departmental rules. It was also found that Anju Devi is not suitable and fit for



appointment as per merit/marks as several candidates have secured more marks than her. It is thereafter, the Superintendent of Post Offices, Vaishali Division was directed to appoint suitable candidate who fulfils the selection yardsticks as per merit/marks and other conditions prescribed by the department. In pursuance of such order, the order of termination of the services of the petitioner was passed on 19th of November, 2009.

8. During the pendency of an Original Application filed by the petitioner challenging his removal, Ravi Shankar Singh has been appointed on 14th of January, 2011. It is the said appointment which has not been interfered with by the Tribunal vide the order impugned in the present writ application.

9. The argument of learned counsel for the petitioner is that once Ravi Shankar Singh has been found to be ineligible in an earlier Original Application filed by the petitioner, he cannot be considered eligible and appointed. He relies upon an order passed by the Hon'ble Supreme Court reported as P. Mohanan Pillai Vs. State of Kerala and others, (2007) 9 Supreme Court Cases 497.

10. We have heard learned counsel for the petitioner and find no merit in the writ application.

11. No doubt, at one stage, the Tribunal has found Ravi Shankar Singh as ineligible for the reason that he has not been



recorded in exclusive possession of the land but the fact remains that in the same order, the Tribunal directed to consider all the candidates who have been sponsored by the Employment Exchange. Admittedly, Ravi Shankar Singh was a candidate who was sponsored by the Employment Exchange. Ravi Shankar Singh has got more marks than the present petitioner. Therefore, the consideration of Ravi Shankar Singh for appointment was in terms of the direction issued by the Tribunal in an earlier application filed by the petitioner himself.

12. The fact that the writ application against the order dated 23rd of January, 2001 was unsuccessfully challenged before this Court in C.W.J.C. No. 1530 of 2001 and later before the Hon'ble Supreme Court will not debar the consideration of Ravi Shankar Singh for appointment in terms of the directions issued by the Tribunal.

13. Reliance of the learned counsel for the petitioner over the case of P. Mohanan Pillai (supra) is misconceived in view of the fact that the terms of advertisement inviting applications cannot be changed but the ineligibility of Ravi Shankar Singh was in respect of lack of exclusive possession of land and such proof has been filed beyond the prescribed period. The condition in the requisition dated 7th of January, 1998 is that the candidate must have an adequate means of livelihood derived from the landed property in his own

name. It is a subjective satisfaction whether the landed property, the details of which were given by Ravi Shankar Singh, was sufficient to meet out the criteria. The finding of the Tribunal that he was ineligible at one stage will not make him ineligible for consideration at subsequent stages when he has furnished details of his landed property which was in joint names.

14. In view thereof, we do not find any merit in the writ application, which is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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