

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14449 of 2015

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1. The Union of India through the Secretary cum D.G. Department of Posts, Dak Bhawan, New Delhi.
 2. The Chief Postmaster, Bihar Circle, Patna.
 3. The Director Accounts (Postal), GPO Complex, Patna.
 4. The Post Master General, Northern Region, Muzaffarpur.
 5. The Superintendent of Post Offices, Purnea Division, Purnea.

.... Petitioners

Versus

Balram Singh Son of Late Ram Dhari Singh Resident of Village & P.O- K. Majhigama, Via- Pinduruch, District- Darbhanga.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar(ASG)

For the Respondent/s : Mr. Hemant Kumar Karn, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 04-01-2016

The Postal Department and its functionaries are the writ petitioners being aggrieved by the judgment and order dated 23.12.2011 of the Central Administrative Tribunal, Patna Bench Patna (hereinafter referred to as “the Tribunal) passed in O.A. No. 826 of 2010. Though the writ petition has been preferred after inordinate delay, we do not propose to take cognizance thereof because even otherwise we find that the writ petition is fit to be dismissed.

2. Having heard the parties and with their consent, we are disposing of this writ petition at this stage itself.



3. The applicant before the Tribunal, who is the sole contesting respondent, was an Extra Departmental Branch Postmaster, which is now known as Gramin Dak Sevak under the scheme of the Department of Post. Such persons were entitled to be considered for permanent absorption in the department subject to vacancies from time to time and certain other conditions. The applicant became entitled to be considered for absorption as the permanent employee of the department as against the vacancies for the year 1990-91, but because of administrative reasons the Departmental Promotion Committee could not be convened till 31st December, 1991. In the said Departmental Promotion Committee, the applicant was considered and, accordingly, was intimated about the decision and the absorption by offer dated 21.03.1992. As the applicant was working as an Extra Departmental Postmaster, it took time to be relieved and, accordingly, joined on 31.07.1992. It may be noted that at that time, the age of superannuation was 58 years and the condition for getting pensionary benefit was 10 years of continuous service. Subsequently, age of superannuation was increased from 58 years to 60 years. Accordingly, this applicant superannuated on 31.01.2002. Accordingly, from the date of joining till the date of superannuation, he had not completed 10 years of continuous service. In fact, the service tenure was about 9 years 7 months, he was thus short of 10



years qualifying service by about 5 months. It may be noted that as per the decision of the department itself, a period of 3 months short fall is condonable. Thus, in fact, we are left with 2 months short fall. The Tribunal allowed the application and directed grant of full pensionary benefit that is what has made the department to file the writ petition.

4. Learned counsel for the department, Sri Sanjay Kumar submits that initially the applicant had moved the Tribunal which had directed the applicant to move the authorities. The authorities passed an order on 09.08.2004 rejecting his plea, this order the applicant did not challenge and the challenge was made by this O.A. which was filed in the year 2010 after much delay.

5. We would not like to go into this question as this issue was never raised before the Tribunal. Further even the department filed the writ petition after much delay and we have taken no cognizance of the delay. Similarly, in this case also we take no cognizance of delay, for we do not want that meritorious contentions should suffer on technicality of delay.

6. As noted above, the applicants were entitled for consideration as against the vacancies for the year 1990-91 and had the Departmental Promotion Committee been held in the said period of 1990-91, applicant would have been selected and joined,

completing 10 years of service. This delay in holding the Departmental Promotion Committee, which was ultimately held on 31.12.1991, was not the fault of the employee and this unexplained delay has deprived him of his right. In our view, the department cannot say that the applicant slept over the matter and thus he loses his right because of his default.

7. In that view of the matter, in the facts aforesaid, we are not inclined to interfere with the order of the Tribunal. The writ petition is thus dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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