

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2210 of 2014

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Aditya Prakash Son of Sri Kapilmani Sah Mohalla- Brahm-pura, Near Sanjay Cinema Hall, Bharat Wagon Colony District- Muzaffarpur

.... Petitioner/s

Versus

1. The Union of India through the DG Cum Secretary, Department of Posts, Dak Bhawan, New Delhi
2. The Chief Post Master General, Bihar Circle, Patna
3. The Post Master General, Northern Region, Muzaffarpur
4. The Director of Postal Services O/O The Post Master General, Northern Region, Muzaffarpur
5. The Superintendent, Postal Store Depot, Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. M.P. Dixit, Advocate
Mr. S.K. Choubey, Advocate
For the Respondent/s : Mr. Sanjay Kumar, ASG

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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: 10-03-2016

The present writ petition has been filed by the petitioner being aggrieved by the order of the Central Administrative Tribunal, Patna Bench, Patna dated 25.10.2013, passed in O.A. No. 145 of 2011 by which the order of termination of the petitioner has not been interfered with by the Tribunal.

We have heard learned counsel for the petitioner and Sri Sanjay Kumar, learned A.S.G. for the Postal Department, who has fairly produced the records in relation to recruitment and appointment of the petitioner. We have perused the records and with

consent of the parties heard the matter for final disposal as this stage itself.

The case of the writ petitioner was that upon a requisition made by the Postal Department to the employment exchange his name was sponsored by the employment exchange for appointment on temporary basis. After two years, he was granted permanent status. To the contrary the Department submits that the requisition was made to the employment exchange but in fact no name was sponsored. In other words, there was no response. An application from the petitioner was received stating that he has been registered with the employment exchange on the basis of that application. On that very day he was appointed on temporary basis. He was then conferred permanent status after two years of temporary service. Accordingly, on behalf of the department, it is urged that the very initial recruitment was de hors procedure established by law.

Having considered the matter, in our view, it is clearly a case of initial backdoor entry being legalized subsequently, by making him permanent. The procedure adopted for his recruitment on temporary basis was not a procedure established by law. There was no advertisement. There being a requisition to the employment exchange, but no response thereof, and on that day itself, three applicants applied, each stating that they were registered in the

employment exchange and out of the three the petitioner was selected for appointment on temporary basis on the same very day. This surely is not a procedure which can be said to be legal and valid in any manner. Having thus being wrongly recruited and consequently wrongly granted temporary status, it could not have been regularized by grant of permanent status subsequently. Once the foundation goes the super structure has to fall. Thus, we find no error in the order of the Tribunal, which requires our interference. This writ petition is accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh/-

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