

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2347 of 2014

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Sudhir Kumar Son of Late Uma Charan Ram Resident of Village + P.S.-
Govindpur, District- Nawada, at Present Posted as Principal, ITI, Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Labour Resource Department, Government of Bihar,
Patna
3. Special Secretary-cum-Conducting Officer, Labour Resource Department,
Government of Bihar, Patna
4. Joint Secretary, Labour Resource Department, Government of Bihar, Patna
5. Director, Employment and Training, Government of Bihar, Patna
6. Deputy Director, Employment and Training, Government of Bihar, Patna

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
 Mr. Rajesh Kumar, Advocate
 Mr. Ravi Shankar, Advocate
 Mr. LAKSHMI KANT SHARMA

For the Respondent/s : Mr. Birju Prasad, G.P.-13
 Mr. Ashok Kumar, A.C. to G.P.-13

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 07-09-2016

Heard learned counsel for the parties.

The case in hand is another glaring example of how
litigations are generated. An allegation relating to admission of some
students during the period 1998 and 1999 was sought to be examined
in the year 2001 and since in between, the Bihar Reorganization Act,
2000, was enacted bifurcating the State of Bihar for creation of the
State of Jharkhand, the petitioner was allocated to the State of Bihar.
On 19.1.2001 a letter was issued by the Principal Industrial Training
Institute, Hazaribagh asking the petitioner to return the records



relating to the admission of the students in the Industrial Training Institute for the year 1998 and 1999. The charge was denied by the petitioner and whereafter nothing happened. 12 years later the respondents woke up from slumber to serve a charge sheet on the petitioner vide Annexure-2 dated 09.7.2013 which was responded to by the petitioner vide his reply placed at Annexure-3 dated 15.7.2013 denying all allegations and praying for supply of documents supporting the allegations which was followed by subsequent requests on 24.7.2013, 05.8.2013 and 14.8.2013. The reply of the petitioner is present at Annexure-4, 5 and 6 respectively. This is followed by a report of the Presenting Officer which is dated 10.9.2013 placed at Annexure-7 and at paragraph-4 of his opinion the Presenting Officer has clearly mentioned that there is no evidence to support the charges against the petitioner. Yet adventurously and relying upon circumstantial evidence that the Enquiry Officer submits his report on 25.11.2013 vide Annexure-11 leading to service of a second show cause on the petitioner on 05.12.2013 present at Annexure-10 which was again responded to by the petitioner on 14.12.2013 vide Annexure-12 and not being satisfied that the punishment order has been passed on 27.12.2013 vide Annexure-1 whereby a punishment of withholding of two increments without cumulative effect has been imposed on the petitioner.



I have heard learned counsel for the parties and I have perused the records and it would not need a long drawn discussion for this Court to hold that the proceedings besides raising stale issues, is also based on no evidence. In my opinion, even if there be any irregularity in the matter of admission of students during the period 1998 and 1999, until such time that there is any evidence to charge the petitioner of taking admissions for pecuniary gains or on extraneous considerations, it cannot be a subject matter of enquiry after a decade. Surprisingly even though there are no contestant to the admissions nor there is any complaint nor any student has raised any grievance of denial of admission in preference to the students who were admitted in the year 1998 and 1999, yet three years thereafter and after the bifurcation of the State of Bihar under the Bihar Reorganization Act followed by transfer of the petitioner to the State of Bihar that a letter is received from the Principal of the Industrial Training Institute, Hazaribagh asking him to return the admission records for the years 1998 and 1999 which was denied by the petitioner. The petitioner has also enquired into the basis on which such allegation has been set up. Obviously, there was nothing on record which would show that the petitioner on his transfer to the State of Bihar brought the said records alongwith and which position is also supported by the opinion of the Presenting Officer present at Annexure-7 which at paragraph-4 has

clearly mentioned that there is no evidence on record to support the charge. Apparently the proceedings in question are in the nature of a ghost chase and merely because at the relevant time the petitioner held the post of Principal of the Industrial Training Institute that the charge of missing records has been mechanically thrust upon him even in absence of any evidence supporting the charge.

For the reasons aforementioned, the entire proceedings including the impugned order dated 27.12.2013, is quashed and set aside. The petitioner shall be entitled to all consequential benefits including the refund of the increment amount, which should be provided to the petitioner within a period of three months from the date of receipt / production of a copy of the order.

The writ petition is allowed.

(Jyoti Saran, J)

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