

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3052 of 2014

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1. Bhubneshwar Modi Son Of Late Sundar Modi Resident Of Mohalla- Congress
Office, Resident Of Village + P.O.- Sultanganj, P.S.- Sultanganj, District- Bhagalpur
.... Petitioner/s

Versus

1. The State Of Bihar Through Its Principal Secretary, Public Health Engineering
Department, Bihar, Patna
2. Principal Secretary, Public Health Engineering Department, Bihar, Patna
3. The Engineer In Chief, Public Health Engineering Department, Bihar, Patna
4. The Chief Engineer, Public Health Engineering, Bhagalpur Division, District-
Bhagalpur
5. The Superintending Engineer Public Health Engineering, Bhagalpur Division,
District- Bhagalpur
6. The Executive Engineer Public Health Engineering Bhagalpur Division,
Bhagalpur, District- Bhagalpur
7. The Director, Agriculture, Bihar Patna
8. The Agriculture Production Commissioner, Bihar, Patna
9. The Special Agriculture Deputy Director, Saharsa District- Saharsa
10. The Project Executive Officer, Murliganj, District- Saharsa

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Gupta

For The Respondent/S : Mr. Sc17- Arvind Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 30-01-2016

A detailed order passed by the Principal Secretary,
PHED, dated 21.01.2014 is under challenge. By virtue of this order,
claim of the petitioner for inclusion of his past service under the State
has been rejected.

The short facts are that the petitioner was selected and
appointed as a Junior engineer in the Department of Agriculture,
Government of Bihar. He worked in that capacity between 27.7.1973
to 17.2.1979. Thereafter on the basis of advertisement issued by the

Department of PHED, petitioner applied for an opening. He was selected and appointed.

Now, after superannuation he has raised a demand that his previous service already under the State of Bihar should be included for pensionable purpose and in this regard he relies on the provision of Rule 101 (b) of the Bihar Pension Rules, 1950.

Even a reading of the said provision would indicate that for any person to derive benefit of appointment under the State on another service has to be by due approval of the appointing authority. Here is a case of resignation to take up a new appointment after due selection, which amount to forfeiture of past service and the Principal Secretary has rightly taken note of the relevant provisions, which come into play for such consideration, which are Rules 103 and 105 of the Bihar Pension Rules and not 101 (b).

The Court is satisfied that the rational and reasoning provided by the Principal Secretary is sound and legal because the petitioner had not taken a new assignment with due permission of the previous department because there is no evidence to that effect in this regard.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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