

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.18568 of 2014

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Ajeet Kumar son of Sri Sakaldeep Singh, resident of Mohalla- Chiraiyatnir, P.S. Jakkanpur, District Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Main Secretariat, Patna.
2. Principal Secretary, Department of Finance, Main Secretariat, Patna,

.... .... Respondent/s

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#### Appearance :

For the Petitioner/s : Mr. Kishore Kumar Thakur

For the Respondent/s : Mr. GA5- JAI SHANKAR BARNWAL

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**ORAL JUDGMENT**

**Date: 05-07-2016**

I.A. No. 8226 of 2014 is allowed in view of the subsequent development and decision, contained in Annexure-15 to the I.A. by virtue of which, service of the petitioner has been repatriated to what is known as Bihar State Textile Corporation Ltd., a defunct and dead organization for many a decades.

2. The facts of the case are such that if the Court does not intervene decisively in favour of a citizen, there would be no option left for the petitioner and his family but to depart from this world in whatever manner they may choose to do. The so-called socialist welfare State which it vouches under the Constitution has no concern and feelings for the citizen or else a mindless and draconian decision, contained in Annexure-15, would not have been passed.

3. Years ago petitioner was appointed on the post of typist in the Textile Corporation. Like many other such Boards and Corporations, even this Corporation went into red and has been defunct for all practical purposes. Since large number of employees of such Boards and Corporations were on the verge of



starvation, since these corporations did not have any resources available for payment of their salary, the State Government therefore decided to depute all such employees, who were initially found to be surplus, to one department or organization. This was a policy and a conscious decision taken and implemented.

4. Since none of these Corporations or Boards showed any sign of revival and recovery, a decision was also taken to absorb such persons in the department where they were deputed or any other organization or department where there were vacancies.

5. Such exercise, however, was not done uniformly and dispassionately. People with resources or having necessary connections succeeded in finding a permanent abode in one department or the other. But otherwise helpless persons like the petitioner were left to their fate. This Court fails to understand as to why no steps were taken so far as the present petitioner is concerned since he had been on deputation with the Finance Department since 1999 and the Textile Corporation becoming non-existent

6. By virtue of Annexure-15 dated 31.10.2014 the Joint Secretary, Finance Department, who seems to be an over dynamic officer, picked up the petitioner, a defenceless soul by giving literal interpretation to the deputation order passed in the year 1999 and ordered his repatriation. At least the authorities of the Finance Department are expected to know that there is no office or place where the petitioner can even report and show his joining in that corporation because counsel for the corporation has very categorically informed the Court that there is neither any office nor any work nor are there any employees left in the organization.

7. If that be so, then the obvious reason for issuance of Annexure-15

is for some other cause because no sane authority would have issued a notification or the order contained in Annexure-15 if it was aware of the actual state of affairs of such corporation, including the Textile Corporation.

8. The Court has reduced the facts as above in a very short and precise manner for the reason that whatever has been stated as above are not matters of any controversy and dispute irrespective of what is being urged and submitted by the counsel representing the State as justification for passing Annexure-15.

9. The Court would only like to remind the counsel representing the State of what various Benches of this Court have had to say on identical issues earlier including a detailed adjudication in a large number of matters which travelled before the Division Bench, a copy of which has been annexed by the petitioner as Annexure-1 to the writ application.

10. The Division Bench decision which is dated 19<sup>th</sup> April, 2010 still occupies the field and if the State authorities had bothered to go through the said decision, the callous and heartless kind of affidavit would not have been filed on behalf of the State justifying the decision, which is subject matter of challenge in the writ application.

11. The decision contained in Annexure-15 as well as the prayer of the petitioner for a direction upon the respondents to absorb him permanently whether in the Finance Department or so-called parent department i.e. Industry Department or any other organization under the State is imperative. This Court is not willing to leave the petitioner to his fate at the fag end of his life. The State still has obligation under the Indian Constitution to reach out to its citizens and the Court is under oath to uphold rights of a citizen and enforce it.

12. Since the law is already settled with regard to permanent absorption and which has been held to be mandatory by these Courts in other

litigations, the impugned order, contained in Annexure-15, is quashed.

13. The petitioner shall continue to hold the post in the Finance Department till a decision is taken with regard to permanent absorption of the petitioner in whatever department or organization of the State can be found and worked out in his favour.

14. Writ application is allowed in terms of the above.

**(Ajay Kumar Tripathi, J)**

R.K.Pathak/-

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