

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19127 of 2015

Binod Kumar @ Vinod Kumar, son of Raj Kumar Sahu, resident of Village-Tirahuta, Via-Babubarahi, District-Madhubani.

.... Petitioner/s

Versus

1. The Union of India through the Chief Postmaster General, Bihar Circle, Patna.
2. The Post Master General (North), Bihar Circle, Muzaffarpur.
3. The Superintendent of Post Offices, Madhubani Division, Madhubani.
4. The Inspector Post, Madhubani West, Sub-Division, Madhubani.
5. The Sub-Postmaster Pandaul S.O.
6. The G.D.S.B.P.M.D., Madhopur B.O.
7. Manmohan Ray, son of Sri Rajdeo Ray, resident of Village-Charpalu, P.O.-Chapahi, via-Rajnagar, District-Madhubani.

.... Respondent/s

Appearance :

For the Petitioner : Mr. Rajesh Kumar, Advocate
For the Respondents-UI : Mr. Satyavrat Verma, C.G.C.

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 28-06-2016

The order dated 23.09.2015 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as 'the Tribunal') in O.A. No.208 of 2011 is subject matter of challenge in the present writ petition. The Tribunal has dismissed an Original Application filed by the petitioner challenging appointment of respondent no.7 as illegal on the ground that he has submitted forged disability certificate on the basis of which he was appointed as *Gramin Dak Sevak*.

2. The certificate of disability of respondent no.7 has

been produced on record. It is a certificate issued by Civil Surgeon, Madhubani on 09.06.1988. The petitioner asserts that disability certificate has to be issued by the Medical Board. Since the disability certificate has been issued only by Civil Surgeon, Madhubani, therefore, such certificate is forged or in any case not valid.

3. We do not find any merit in the argument raised. The certificate is issued by the Civil Surgeon. Before issuance of disability certificate, the Civil Surgeon must have complied with all procedural requirements which are required to be satisfied. It is for the employer to satisfy the requirements of a disability certificate. We do not find that mere fact that the certificate has been issued by Civil Surgeon is a ground to treat the disability certificate as suspicious or to return a finding that it is forged.

4. The other argument raised by the learned counsel for the petitioner is that even educational certificate is forged. The Tribunal has found that no such plea was raised in the Original Application, but plea was raised in the rejoinder. The applicant has not amended the Original Application to raise such a plea.

5. We find that the view of the Tribunal to be legally justified. In the rejoinder, the parties cannot take a new plea. The rejoinder will not give an opportunity to the respondent to submit counter affidavit. Therefore, it will violate the principles of natural

justice. Therefore, any plea taken in the rejoinder cannot be taken into consideration.

6. Still further, the Tribunal has recorded that respondent No.7, the selected candidate, was first in the merit list, whereas the petitioner was no.10 in the merit list. Therefore, even if the appointment of respondent no.7 is to be set aside, the petitioner cannot be ordered to be appointed.

7. In view of the facts as noticed above, we do not find any merit in the present petition. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
CAV DATE	N. A.
Uploading Date	04.07.2016
Transmission Date	