

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.285 of 2009

IN

L.P.A. 600 of 2007

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Prakash Narain Thakur Son of Badri Narain Thakur, resident of village Mampaur,
P.S. Benipatti, District Madhubani.

.... Petitioner

Versus

1. The State of Bihar through Commissioner-cum-Secretary, Human Resources Development Department, Govt. of Bihar, New Secretariat, Patna.
2. The Director, Secondary Education, Human Resources Development Department, Govt. of Bihar, New Secretariat, Patna.
3. The Regional Deputy Director of Education, Darbhanga Division, Darbhanga.
4. The District Education Officer, Madhubani.
5. The Head Master, High School Sonai, District Madhubani.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajendra Prasad Singh, Sr. Advocate
Mr. RAJEEV KUMAR SINGH

For the Respondents : Mr. Sunil Kumar Mandal, S.C. 3 &
Mr. Bipin Kumar, A.C. to S.C. 3

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 03-08-2016

Heard Mr. Rajendra Prasad Singh, learned Senior
Counsel for the review petitioner and learned counsel for the State.

Writ petitioner is the Review petitioner.

The writ petitioner claimed to have been appointed
by valid selection process to the post of Clerk. Appointment letters
were issued by the Regional Deputy Director of Education,
Darbhanga. After ten years of service, the salary payment to him was
stopped. He challenged the same before this Court in a writ



proceeding which was relegated to the authority concerned with a direction to the petitioner to file a representation. Upon representation being filed, the authorities issued the termination letter holding (i) that the Regional Deputy Director of Education was not the appointing authority, the appointing authority was the District Education Officer and (ii) that the petitioner had, primarily, not appeared for shorthand and typing test and his name did not appear in the select list and as such he could not have been issued the appointment letter.

Being aggrieved by the said termination order, a writ petition from which this proceeding arises, was filed. The writ petition was allowed by the learned Single Judge on the ground that the Regional Deputy Director of Education, Darbhanga, being senior officer could have issued the appointment letter. The Court also took notice of similar orders passed in other cases. The State filed an intra court letters patent appeal challenging the said order of the learned Single Judge allowing the writ petition and setting aside the letter of termination. The Letters Patent Appeal Bench held against the State view in so far as the power to appoint is concerned but then it noticed that the dismissal was on the ground that the writ petitioner had not appeared in shorthand and typing test and as such was not included in the final select list. Not being in the select list, he could not have been issued the appointment letter. Holding thus, the Letters Patent

Appeal of the State was allowed and the order of the learned Single Judge was set aside and the writ petition was dismissed.

This Review petition has been filed by the writ petitioner. He says that looking into the fact that the appointment was of a Clerk and not of a Steno Typist, he was not required to take short hand and/or typing test. The merit list that they talked is the merit list of Steno-cum-typist. These submissions are coming for the first time in this review application.

We have gone through the entire record of the writ application and the Letters Patent Appeal. There is no pleading of any such kind in any of the proceedings, even though this was the gravamen of charge against the writ petitioner. It was never controverted by pleadings muchless there being no pleading to contradict this allegation/charge, we do not see that the Letters Patent Court has committed any error on record justifying review.

We, therefore, find no merit in this Review application. It is dismissed accordingly.

(Navaniti Prasad Singh, J)

Amin/-

(Jyoti Saran, J)

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