

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13737 of 2016

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Arvind Kumar Khan, Son of Shri Phanibhusan Khan, Resident of Village+ P.O.+ P.S.-
Bangaon, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
2. The Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
3. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.
4. The Special Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
5. The Inspector General of Registration, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
6. The Assistant Inspector General of Registration (Headquarter), Government of Bihar, Patna.
7. The Assistant Inspector General of Registration, Patna Division.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate with Mr. Vikas Kumar, Advocate
For the Respondent-State	:	Mr. Anshuman Singh, AC to PAAG 1
For the Respondent-BPSC	:	Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 22-12-2016

Heard Mr. P.K. Shahi, learned senior counsel who appears along with Mr. Vikas Kumar, Advocate on record and Mr. Anshuman Singh, learned Assisting Counsel to Principal Additional Advocate General No.I for the State and learned counsel for the Bihar Public Service Commission.

Amongst the other issues that has been raised in the present writ petition to question the order of compulsory retirement bearing Memo No.3362 dated 19.7.2016, a copy of which is impugned at Annexure-1 to the writ petition, it is the specific argument of Mr. Shahi, learned senior counsel appearing for the petitioner that the petitioner being a gazetted Government employee of the State Government, it is the State Government who is the appointing authority and also the authority competent to impose the



punishment(s) envisaged under the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as ‘the Rules’). He submits that the order impugned having been passed by the Principal Secretary, Department of Registration, Excise and Prohibition is a nullity.

Mr. Shahi has referred to the statements made in this regard at paragraph 39 of the writ petition to submit that specific issue has been raised by the petitioner as regarding the jurisdiction in the Principal Secretary to pass the impugned order and which is returned by an evasive reply given by the respondents in paragraph 17 of the counter affidavit that the petitioner not having raised his objection earlier, the ground has been waived of.

Having heard learned counsel for the parties and considering the legal issue raised, it would not detain this Court to hold that the order bearing Memo No.3362 dated 19.7.2016 impugned at Annexure-1 not being an order of the State Government, is a nullity and is accordingly quashed and set aside.

This order, however, would not preclude the authority concerned, if so advised, to proceed in the matter, but in accordance with law. It is clarified that this Court has not expressed any opinion on the merits of the case.

The writ petition is accordingly allowed.

(Jyoti Saran, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	23122016
Transmission Date	NA

