

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3013 of 2014

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Radha Raman Choudhary S/O Late Janardan Prasad Choudhary Ex-Postal Assistant
Purnea H.O. Reasident Of Village And P.O.- Singhia Via Purnea Chowk, District-
Purnea

.... Petitioner/s

Versus

1. The Union Of India Through The Secretary, Department Of Posts, New Delhi
Cum The Director General, Department Of Post, New- Delhi- 110001
2. Chief Post Master General, Bihar Circle, G.P.O. Complex, Patna-800001
3. The Post Master General, Northern Region, Muzaffarpur
4. The Superintendent of Post Offices, Purnea Division, Purnea
5. The Director of Account (Postal), Patna- 800001

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Sanjiv Krishna Bariar, Advocate

For the Respondent/s : Mr Rajesh Kumar Verma, CGC

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 15-01-2016

Heard the parties, and, with their consent, the writ
petition is being disposed of at this stage itself.

2 The petitioner is aggrieved by the order of the
Central Administrative Tribunal (for brevity, *the Tribunal*) passed in
OA No 100 of 2007 being order dated 13.03.2012 by which the prayer
of the petitioner, for being allowed pension upon superannuation from
Postal Services, has been denied.



3 The facts are not in dispute. The petitioner was a Gramin Dak Sevak Branch Post Master (for brevity *GDSBPM*). As per the Rules of the Postal Department, having completed a particular tenure and subject to vacancy, he was entitled to be absorbed and appointed in Group “D” service in the Postal Department. As against two vacancies occurring for the year 1995, consent from the petitioner was taken on 28.02.1995. The process for absorption and appointment was then taken up but ultimately it was only on 23.09.1996 that the Departmental Promotion Committee (for brevity, *DPC*) met and took a decision in the matter. There being two vacancies, the two persons, above the petitioner, were offered absorption. They refused and, accordingly, it was then offered to the petitioner who, by then, had completed 50 years of age. Group “D” employees superannuate on completion of the age of 60 years.

4 The grievance of the petitioner is that as the consideration of vacancies was for the year, 1995 and consent also having been taken in February 1995, had the DPC immediately met, petitioner would have been taken into Group “D” service long before he completed the age of 50 years. Consequently, upon his superannuation, he would have served as a Group “D” employee for more than 10 years entitling him to pension. Merely because DPC took over a year to meet and take decision and pending DPC,

petitioner completed 50 years of age, in ultimate analysis, petitioner was short of four months in completing 10 years tenure and, thus, on this count alone, he has been deprived of pension. Learned counsel further points out that as per the Postal Department Rules, a shortage of 3 months is condonable. Here, the DPC delayed the consideration by over a year and it is because of the delay on part of the DPC that petitioner is being deprived of his pension which is very valued.

5 Having considered the matter, in our view, the petitioner's grievance is legitimate. It is well established principle of law that no one can take advantage of its own fault much to the detriment of another. It cannot be said that I committed a default and your right is lost because of that default.

6 In the present case, the petitioner attained the age of 50 years on 24.07.1996. Had the DPC been held on any day prior to that, which it was bound to hold, consent having been taken in February 1995 itself, petitioner could not have been denied pension.

7 Thus, it is evident that the denial of pension is merely on the ground that consideration by DPC was delayed by almost a year and, thus, this delay by the authorities in considering the case of the petitioner has resulted in petitioner's being denied right to pension. This is not permissible. The petitioner had done all that was required by him long before he attained the age of 50 years.

Authorities also accepted the fact and took his consent in February, 1995 that is almost one and half years prior to his attaining the age of 50 years but still the DPC was delayed.

8 In such a situation, in our view, the Tribunal was not correct in denying the petitioner his rightful claim to pension.

9 Thus, we have no option but to allow the writ petition and set aside the order of the Tribunal and direct the authorities to consider and grant pension to the petitioner in the facts and circumstances noted above.

10 As the matter is already delayed, authorities would take appropriate steps in the matter within three months.

(Navaniti Prasad Singh, J)

M.E.H./-

(Nilu Agrawal, J)

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