

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.56 of 2016
IN
Civil Writ Jurisdiction Case No. 10114 of 2015

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Ravi Kumar Son of late Ramanand Ram resident of Mahavir Colony, Siachak, P.O. Anisabad, P.S. Beur, District Patna.

.... Appellant

Versus

1. The State of Bihar
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Principal Secretary, Personnel and Administrative Reforms Department, Govt. of Bihar, Patna.
4. Abhilekh Nideshak, Bihar Rajya Abhilekhagar Nideshalaya, Mantrimandal Sachivalaya Department, Govt. of Bihar, Patna.

.... Respondents

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Appearance :

For the Appellant : Mr. Akhileshwar Dayal, Advocate

For the Respondents : Mr. Sajid Salim Khan, SC 25

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 17-11-2016

Heard learned counsel for the appellant and learned counsel for the respondents.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 4th of August, 2015 in CWJC No. 10114 of 2015 whereby an order of termination of the services of the appellant as Vendor-cum-Book Binder was not interfered with.

3. A perusal of the record shows that the appellant was appointed on compassionate ground on 7th of December, 2010 on the post of Vendor-cum-Book Binder with a condition that he should obtain technical qualification within six months. The appellant was

appointed on account of death of his father on 22nd August, 2008.

4. The appellant did not obtain technical qualification within the time granted and consequently the order of termination of his services was passed on 27th September, 2012 after giving an opportunity to complete the course.

5. The challenge to the said order of termination remained unsuccessful before the learned Single Bench. The learned Single Bench recorded a finding that the stand of the appellant was that he has actually completed the training and not that he could complete his training due to illness. The Court recorded the following findings:-

“In that view of the matter, this Court is now not inclined to go into the question as to whether was the petitioner not in a position to complete the training on account of his illness. The petitioner infact did not say so before the authority rather he came out with a stand that he had actually completed his training. In that view of the matter, a person, who got appointment on compassionate ground even if he did not have a qualification for the post, his appointment itself was bad. If a grace was shown to the petitioner by way of compassion in the matter of compassionate appointment and the same was not availed by the petitioner, this Court cannot help him in any manner”.

6. Before this Court learned counsel for the appellant referred to the prescriptions by the private doctors. The diagnosis is not serious enough which could restrict obtaining of the technical

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qualification within time granted by the respondents. The medical prescriptions are of general and routine ailments and not serious enough to which may lead to prevent the appellant from completing the technical training warranted as a condition of appointment. It appears that the medical prescriptions are just an excuse produced by the appellant having failed to complete the technical qualification as a condition of appointment. The learned Single Bench has in fact found that the illness was not a ground that he could not complete the training whereas the stand in the writ petition was that he could not complete the training because of illness. The stand is contradictory and does not inspire confidence. The appellant has failed to complete the training within a period of more than two years and thus, the action of the State Government cannot be said to be unjustified in terminating the services of the appellant.

7. In view of the above, we do not find any error in the order of the learned Single Bench which may warrant interference by this Court. The present Letters Patent Appeal is accordingly dismissed.

(Hemant Gupta, ACJ)

B.T/-

(Vikash Jain, J)

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