

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1964 of 2012

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Pawan Kumar Choudhary S/O Sri Mahendra Safi R/O Village & P.O.-
Jitwarpur, P.S. Rahika, District- Madhubani

.... Appellant

Versus

1. The State Of Bihar
2. The Secretary-Cum-Commissioner, Welfare Department, Govt. Of Bihar,
Patna
3. The Director, Welfare Department, Govt. Of Bihar, Patna
4. The Deputy Director, Social Welfare Department, Darbhanga Division,
Darbhanga
5. The Director, Welfare Officer, Welfare Department, Madhubani

.... Respondents

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Appearance :

For the Appellant : Mr. Rajendra Prasad Singh, Sr. Advocate
Mr. Navjot Yesu, Rishi Raj

For the Respondents : Mr. Ashok Priyadarshi, GA 4
Mr. Sanjay Sinha, AC to GA 4

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE NAVANITI
PRASAD SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

3 03-03-2016 The challenge in the present Letters Patent Appeal is to an order dated 18.10.2012 passed in CWJC No.12044 of 2008, whereby the learned Single Judge dismissed the writ petition refusing to interfering in the order of removal of the petitioner from service.

The appellant is said to have applied in response to an advertisement published by Employment Exchange for appointment to Class III post in the office of the Directorate of Welfare, Govt. of Bihar. The appellant was appointed as

Assistant Teacher vide Memo No.27, dated 29th September 1995. The appellant was removed from service on 6th June, 2006.

Earlier, the appellant filed a writ application which was decided on 31st January, 2006. It was directed to issue the individual show cause notices to the parties by the Directorate of Welfare. Thereafter, it has been found that in fact, the posts were required to be filled up by Bihar Public Service Commission but the appointment has been made without recommendation of the Bihar Public Service Commission. There was no open advertisement for the appointment, therefore, the process of appointment is not legal.

The Class III posts have been filled up without any open advertisement and without any recommendations of the Bihar Public Service Commission as required. As per the petitioner, his name was sponsored by the Employment Exchange. Therefore, the process of appointment does not satisfy the parameters of appointment against public post. A public post can be filled up only by public advertisement including notification through Employment Exchange and thereafter giving opportunity to all eligible candidates to be considered for appointment. Since such process was not adopted, the appointment of the appellant was not legal.

Consequently, the appellant has rightly been removed from service.

We do not find any error in the order of the learned Single Judge which may warrant any interference in the present appeal.

The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Navaniti Prasad Singh, J)

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