

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18323 of 2008

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Kamla Singh, s/o Shri Ram Anandi Singh, r/v- Ghataro (Gaisni Tola), P.O. – Ghataro, P.S. – Karwaha, District - Vaishali

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
3. The Deputy Secretary, Human Resources Development Department, Govt. of Bihar, Patna
4. The Director, Human Resources Development Department, Govt. of Bihar, Patna
5. The Deputy Secretary-cum-In-Charge (Dissolved Bihar State Inter University Board), Human Resources Development Department, Govt. of Bihar, Patna
6. Bihar Inter University Board (Dissolved), North Sri Krishna Puri, Sardar Patel Path, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. ARUN KUMAR, Adv.
For the Respondent/s	:	Mr. Arvind Ujjwal (S.C.-4)
	:	Mr. Maruth Nath Roy, A.C. to S.C. - 4

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 02-02-2017

Heard both sides.

The petitioner seeks quashing of Office Order No. 55, as contained in Memo No. 15/M1 -162/07-1472 dated 09.07.2008 issued under the signature of Deputy Secretary, Human Resources Development Department, Bihar, Patna.

The facts which are relevant for disposal of this writ petition are as follows:-

The petitioner was appointed vide Memo No. 315-18/81 dated 28.10.1981, on daily wages on the post of Peon, in Bihar Inter



University Board till further orders. The petitioner was again regularized on the post of Peon in the pay scale of Rs. 350-425 on 30.11.1988, but by order dated 03.07.1991 as contained in Memo No. I.U.B/1668-72/91 the Deputy Secretary of the Board terminated the service of the petitioner. The petitioner filed C.W.J.C. No. 6238/92 and the writ petition of the petitioner was dismissed with liberty given to the petitioner that if an advertisement was issued, the petitioner would apply afresh as and when the vacancy on the post of Peon is caused and the petitioner would be eligible for being considered for appointment, but no advertisement was ever issued for appointment on the post of Peon. The Deputy Secretary wrote a letter to the Director, Higher Education Bihar to create a post since the petitioner was working much prior to 01.08.1985. The Deputy Secretary again appointed the petitioner on contract basis on the post of Peon from the date of 01.12.2006 on the petition of the petitioner filed on 29.12.2006, but the service of the petitioner was terminated on 09.07.2008, as contained in Memo No. 15/M1 -162/07-1472.

Learned counsel for the petitioner submits that the petitioner was working on temporary basis, but Bihar Inter University Board (Repeal) Act, 2007 came into force. Section 4 of the aforesaid repealing act mandates that the services of all the employees are directed to be absorbed as if the repealing act has not come into force.



Section 4 of Bihar Inter State University Board (Repeal Act), 2007 says as follows:-

“(i) On and from the date of repeal of the Act, all the employees of the Board, shall remain in employment, as the Act has not been repealed and they shall continue to be paid same salary and allowances as was payable on the date of repeal of the Act till such time State Government takes such final decision as provided hereinafter:-

(ii) The State Government shall constitute a Committee of Secretaries consisting of three Secretaries to the State Government, who shall prepare a detailed scheme of absorption, retirement, compulsory retirement or voluntary retirement, other service conditions of employees of the Board. Scheme prepared by the Committee of Secretaries shall be placed before the State Government within three months from the date of enforcement of the present Act for its approval.

It shall be open to the State Government to modify, amend or suggest modification or amendment in the scheme and the scheme thereafter shall be made operational in such form and intent as finally approved by the State Government. The scheme approved by the State Government shall be considered a Statutory Scheme framed under this Act.”



From perusal of the aforesaid act, it appears that it speaks about the persons who were already working in the Board on a sanctioned post, but from perusal of the appointment letter of the petitioner, it appears that the petitioner was working on daily wages and his service was terminated in the year 1991 itself. The petitioner moved this court in C.W.J.C. No. 6238/1992 and this court dismissed the writ petition giving liberty to the petitioner to apply as and when an advertisement was issued for filling up of the post of Peon in the Board, but no such advertisement was issued and the petitioner was again, for the reasons best known to the Deputy Secretary of the Board, was appointed to the post of Peon on contract basis that too from 01.12.2006. Although, the petitioner filed petition for such appointment on 29.12.2006 and accordingly his service was terminated which was purely, temporary appointment on contract basis. Therefore, I do not find any substance that the service of the petitioner be either regularized or his appointment be treated, as regular, since the petitioner has already attained his age of superannuation after his termination.

I do not find any merit in this writ petition. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J.)

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