

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1656 of 2016

In
Civil Writ Jurisdiction Case No.217 of 2000

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Laxmi Mochi S/o Shri Subhash Mochi, R/o- P.W.D. Godown, Serpentine Road, P.S.- Sachiwala, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary, State Language Department (Rajbhasha), Govt. of Bihar, Patna.
2. Director, State Language Department (Rajbhasha), Govt. of Bihar, Patna.
3. Deputy Secretary, Rajbhasha Department, Old Secretariat, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Baidya Nath Thakur
For the Respondent/s : Mr. Rana B.N.Singh, AC to GA 10

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 12-12-2017

In the interest of justice, delay of 374 days is condoned.

I. A. No.4258 of 2017 is allowed. The matter is thereafter taken up for consideration on merits.

2. The appeal has been preferred against the order and judgment dated 10.07.2015 passed by the learned Single Judge, who dismissed the writ application refusing to find any merit in the prayer for quashing the decision of the Raj Bhasha Department to revert the appellant from the post of a Typist to the post of a Peon.



3. It is a strange way of governance which has been noticed in this particular case. Obviously, the then Director, Raj Bhasha was a Zamindar rather than a government servant who was willing to abide by the law or rules governing appointment or promotion to people, who were not even eligible in the very first place.

4. The facts which emerge is that large number of similarly situated persons came to be appointed as Peons on a temporary basis. Even before they could be regularized or confirmed on the post of Peon, the story is that the Director asked them to work as Typists. In other words, a casual employee engaged on the post of a Peon, which is a class IV post, is given a jump on a post of Class III as a Typist. No process, no procedure, no explanation came forth as to why such a modality has been adopted to appoint and accommodate, if not grant promotions, to such people, who are not the chain of promotion as class IV employees.

5. The learned Single Judge also took note of the fact that there are certain set of rules where class IV employees can be given openings in life to be considered and promoted to class III post but for that they need to go through the process of selection and the Staff Selection Commission of the State of Bihar had been saddled with the responsibility as far back as in the year 1981



itself, to conduct such tests and examinations of eligible candidates for grant of benefit of such promotion. Nothing of that kind has been done in the present case.

6. Since no government servant can be allowed to be law by himself and merely because he decides to confer certain benefits obviously for extraneous reasons and considerations, the length of period of service rendered in that capacity cannot form the basis for conferring a right upon such beneficiaries because what is seeded in illegality continues to be so and the same cannot be given a seal of approval by any judicial forum.

7. The sum essence of the decision of the learned Single Judge is what has been stated in the earlier part of the order may be in another form and content but then the facts being what they are, this Court is not moved by the arguments of the learned senior counsel that a lenient view should be taken in such matter.

8. In fact, the Court is of the opinion that any leeway given to this kind of illegal decisions embolden many officers to take advantage by conferring benefit and then leaving it to the fate of the candidates as well as magnanimity and mercy of the Courts. Since no violation of any right emerge, then interference with the decision of the learned Single Judge is unwarranted.



Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2017
Transmission Date	NA

