

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8345 of 2014

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Md. Manan Ansari, s/o late Md. Ramjan Ansari, resident of at & P.O. Abgila, P.S. Muffassil, District Gaya.

.... Petitioner.

Versus

1. The State of Bihar through the Secretary department of Personnel and Administrative Reforms, Patna.
2. The Commissioner Magadh, Gaya.
3. The Collector Gaya.
4. Additional Collector (establishment) Gaya.
5. The Deputy Collector Nazarat, Gaya.
6. The Anchal Officer Wazirganj, District Gaya.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Amarendra Narayan, Adv.
For the Respondent/s : Ms. Shilpa Singh, G.A.-12.
Ms.Abhanjali, A.C. to G.A-12.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 30-08-2017

Heard both sides.

The petitioner filed this writ application for quashing the order dated 11.02.2014 as contained in memo no.18/14-08, issued under the signature of the District Magistrate, Gaya, by which the appointment of the petitioner was found illegal and he was dismissed from service.

In pursuance of an Advertisement No. 01/ Gaya dated 16.12.2004, the petitioner was empanelled for appointment on the post of Class-IV and he was appointed on 04.03.2009. On receipt of a complaint, the petitioner was



asked to show cause that his appointment was not made in accordance with law as he did not fulfill the criteria 6(kh) and 6(Chh) of Advertisement No.01. The petitioner filed his show cause and thereafter the Collector found that the petitioner was paid his wages for the works done by him for only 180 days but in fact he worked for more than 240 days and did not remove the petitioner from service. The Collector vide order dated 22.12.2011 condoned the criteria and retain the petitioner in service. Consequently, the petitioner was confirmed in his service with effect from 04.03.2012 but without hearing the petitioner, Annexure-1 has been issued terminating the petitioner from his service. Thereafter, the petitioner was regularized and confirmed in his service but the authority without holding any departmental enquiry dismissed the petitioner from service.

On the contrary, the learned counsel for the State submits that the petitioner was verbally asked but he did not appear nor produce any papers to show that he was paid for more than 240 days and it was found that the petitioner worked for only 181 days for which he was paid his daily wages. Consequently, the petitioner was removed from service.

Having heard both sides and on



consideration of materials, I find that after appointment of the petitioner on 04.03.2009 in pursuance of the Advertisement No.01/Gaya dated 16.12.2004, an enquiry was held and it was found that the petitioner submitted voucher for payment of wages for only 180 days. The petitioner did not work for 240 days and he did not fulfill the criteria for empanelment for appointment on Class-IV post but the District Magistrate, Gaya vide his order dated 20.12.2011 found that the petitioner did not produce the voucher for payment of wages for 240 days but in fact he worked for more than 240 days without any remuneration and on such, the criteria was relaxed and he was allowed to remain in service. Thereafter, the petitioner was regularized in his service with effect from 04.03.2012 but the authority without asking any show cause dismissed the petitioner from service. Once the petitioner is completed his probation satisfactorily and confirmed in his service with effect from 04.03.2012, the authority cannot terminate the service of the petitioner without holding departmental enquiry or asking show cause from the petitioner in accordance with law. Therefore, I find that the order as contained in Annexure-1 is bad and not sustainable.

Accordingly, this writ application is allowed and the order dated 11.02.2014 as contained in memo



no.18/14-08 (Annexure-1) is set aside and the matter is remitted to the Disciplinary Authority, if he so desires to proceed further in accordance with law.

Nitesh/-

(Prabhat Kumar Jha, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.09.2017
Transmission Date	NA

