

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.508 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 16804 of 2008

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Ram Kumar, son of Indradeo Singh, resident of Village - Khutaha, P.S. - Barahiya,
District - Lakhisarai.

.... Appellant / Petitioner

Versus

1. The State of Bihar.
2. The Secretary, Department of Home (Police), Government of Bihar, Patna.
3. The Director General-cum-Inspector General of Police, Bihar, Patna.
4. Additional Director General of Police, Bihar Military Police, Bihar, Patna.
5. Inspector General of Police, Bihar Military Police, Bihar, Patna.
6. Deputy Inspector General of Police, Bihar Military Police, Bihar, Patna.
7. Commandant, Bihar Military Police - 8, Begusarai.
8. Chairman, Selection Board, North Division-cum-Commandant, B.M.P.-13, Darbhanga.
9. Jharkhand Armed Police - 3, Govindpur, Dhanbad.
10. Mritunjay Kumar, son of Sri Binod Singh, resident of Village - Mahua Ramrai, P.S. - Mahua, District - Vaishali.

.... Respondents / Respondents.

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Appearance:

For the Appellant/s : Mr. Shantanu Kumar, Advocate.

For the Respondent/s : Dr. Anand, AC to AAG 3.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-04-2017

Having heard learned counsels for the parties, we find that even if the contention of the petitioner that the post vacated by respondent no. 10 on his dismissal has to be given to the petitioner being the next available candidate in the merit list, we see no substance in the aforesaid contention. Respondent no. 10 was appointed as per his own merit to the services in the State of Bihar. After joining, on account of certain facts that came to the notice, his services were dismissed, and



after his dismissal, the post became vacant. It is a post which was filled up through the recruitment process. The recruitment process for this post was completed after dismissal of respondent no. 10. Even if the post became vacant, it cannot be filled up by the petitioner who is in the wait list; [See, **Raj Rishi Mehra & Ors. v. State of Punjab & Anr. (2013) 12 SCC 243;** **Manoj Manu & Anr. v. Union of India & Ors. (2013) 12 SCC 171**].

In the case of **Manoj Manu** (Supra) it has been held by the Hon'ble Supreme Court that once in pursuance to the process of recruitment held a candidate joins on the post and thereafter resigns or leaves and the post is vacated, on such eventuality, after joining of the candidate the recruitment process with regard to the post is deemed to be concluded and the vacancy created by resignation of the candidate cannot be filled up by a candidate from the wait list. The post becomes vacant and available to be filled up in the next recruitment process. This is again the law laid down in the case of **Raj Rishi Mehra** (Supra) wherein it has been held that a person whose name appears in the wait list is not entitled to claim appointment to a post which gets vacated after the incumbent appointed to the post joins and then leaves the post either by resignation or by other process. It is held that once the recruited candidate joins on a post, the post gets filled up and thereafter on its getting vacant a wait listed candidate cannot be appointed to the



post. If that be the law with regard to the right available to a wait listed candidate for seeking appointment on a post, the petitioner cannot get any benefit.

We are of the considered view that once a post is vacated by the respondent no. 10, the same cannot be filled up by a candidate whose name appears in the Waiting List. Accordingly, finding no ground to interfere with the order passed by the learned Writ Court, the Letters Patent Appeal is dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.04.2017
Transmission Date	N/A

