

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11874 of 2014

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1. The Union of India through the Secretary-cum-D.G., Department of Posts, Dak Bhawan, New Delhi
 2. The Chief Post Master General, Bihar Circle, Patna
 3. The Asstt. Director (Recruitment), O/o the Chief Post Master General, Bihar Circle, Patna
 4. The Sr. Superintendent of Post Offices, Patna Division, Patna

.... Petitioner/s

Versus

1. Avinash Kumar S/o Sri Rabindra Kumar Singh, resident of Mohalla Sheopuri, P.O.- Shastri Nagar, District- Patna
2. Binita Kumari, D/o Sri Ram Shankar Mishra, resident of village & P.O.- Sabalpur, Via- Begampur, P.S. Deedarganj, District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar (ASG)
For the Respondent/s : Mr. J.K.Karn, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 09-01-2017

The order impugned is dated 25th September, 2013 passed in O.A. No. 566 of 2012 by Central Administrative Tribunal, Patna Bench, Patna. A direction has been issued upon the respondents to declare the results of the applicants and if they are found successful in the examination, they be permitted to join the same post, which is the post of Postal Assistant.

It seems from the narration of the order impugned that for the vacancies existing for the year 2006 an examination was held on 15.04.2007 but for some unexplained reasons, the results came to be declared in instalments between 2007 to 2011.



Obviously, because the results were declared in staggered fashion over a prolonged period of time, the issue of seniority arose between the people recommended earlier, merely on the basis of their result having been declared earlier to the applicants, who are also private respondents in this case.

Considering the entirety of the issue, the Tribunal passed the order giving a direction in favour of the applicants as well as allowing a window for being promoted on the post, for the year 2010-2011.

Similar kind of dispute had travelled to the tribunal in many other O.As. brought before it. Some of them are O.A. No. 227 of 2006, O.A. No. 103 of 2007 and O.A. No. 576 of 2011. In those O.As., similar kind of relief and directions had been issued and the department had carried out those directions without resisting or challenging the same before any forum.

If the Tribunal has taken a consistent view on the basis of past adjudications on identical matters and facts, then there is no reason for this Court to interfere with the order of the tribunal and deny to the private respondents the benefit, which has already accrued to similarly situated employees of the Postal Department.

There has to be consistency in judicial decision making and there can not be conflicting or inconsistent kind of orders from case to case, even though, they arise from common bundle of facts



and similar kind of background as to the dispute.

Learned Assistant Solicitor General representing the Union of India submits that the rules require a minimum of three years of regular service for granting any benefit of such kind on the post in question.

On pointed query, placed before the said counsel whether such a plea was taken before the Tribunal, there is no clear picture emerging either from reading of the order of the Tribunal or from any pleading as such.

A new plea, therefore, can not be allowed to be raised merely as an afterthought to assail the impugned order. This Court, while exercising powers of judicial review, will not entertain such a plea, which was not raised so that the Tribunal could answer it.

In totality, therefore, the impugned order does not require to be interfered with. The writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

Sudha/Rajesh

AFR/NAFR	NAFR
CAV DATE	
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