

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8718 of 2016

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Upendra Kumar, son of Late Lal Mohan Ram, village – Kora, P.O. Kora, P.S. Ghoshi, District - Jehanabad

.... Petitioner/s

Versus

1. The Union of India through Principal Accountant General (Accounts & Audit), Bihar, Patna, Government of India
2. The Sr. Audit & Accounts Officer, Admin. 1 Bihar, Patna
3. The Assistant Comptroller and Auditor General, Office of the Comptroller and Auditor General of India, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anurag Saurav, Advocate

For the Accountant General : Mr. Madhuresh Prasad, 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: 04-02-2017

The writ has been filed against the order dated 04.02.2016. This was the order passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. 561 of 2014 and M.A. 456 of 2014. By virtue of the order impugned, both the M.A. and O.A. were dismissed and, therefore, the writ.

2. So far as M.A. is concerned, condonation was sought, but the Tribunal came to a considered opinion that any claim for regularization of service for so called continued period of work between 1997 to 2002 is hopelessly barred by limitation.

3. An effort was sought to be made by urging before this Court by counsel representing the petitioner that the Tribunal was



in error by going into the issue of regularization for the period of work in question as the primary relief of the petitioner before the Tribunal was to regularize him against the advertisement dated 03.04.2010.

4. A copy of the O.A. has been produced. There are two distinct prayers made in the O.A. Prayer No. 1(i) talks in terms of the advertisement dated 03.04.2010 and the relief related thereto, whereas prayer No. 1(ii) talks about the regularization, as such on the basis of principle laid down by the Hon'ble Supreme Court in the case of **Secretary, State of Karnataka & Ors. Vrs. Umadevi (3) & Ors.**, reported in **(2006) 4 SCC 1**.

5. The dismissal of the M.A. and refusing to condone the delay, therefore, cannot be said to be an error committed by the Tribunal.

6. Coming to the issue of regularization of the petitioner against so called advertisement dated 03.04.2010, this aspect was also gone into and it emerges that the petitioner's name is not really reflected in the records of respondents. The records indicate name of one Upendra Kumar, but his father's name was Late Lalan Ram and not Late Lal Mohan Ram, which the petitioner claims himself to be.

7. With this kind of lack of identity being established as to whether this petitioner, if at all, had worked under the



respondents, as he claims, the Central Administrative Tribunal was left with no option, but to dismiss the O.A. application and refuse to pass any order in absence of clear material and evidence having been established with regard to his work as casual labourer under the respondents.

8. The order of the Tribunal to that extent cannot be said to be erroneous. The writ application is, therefore, dismissed.

9. A copy of the O.A. is placed on record for any future reference.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

Arjun/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2017
Transmission Date	NA

