

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.436 of 2016

IN

Civil Writ Jurisdiction Case No. 114 of 2009

- =====
1. The State of Bihar through the Secretary, Department of Health , Government of Bihar, New Secretariat Vikas Bhawan , Bailey Road Patna.
 2. The Joint Secretary, Department of Health Medical Education and Family Welfare Government of Bihar, New Secretariat Patna.
 3. The Deputy Secretary, Department of Health, Medical Education and Family Welfare Government of Bihar New Secretariat Patna.
 4. The Director-in-Chief, Health Services, Bihar Patna, New Secretariat Vikas Bhawan Bailey Road, Patna.

.... Respondents-Appellant/s

Versus

Indrashan Singh, son of late Ram Vyas Singh, resident of village Arak, P.S.-
Krishna Brham, District-Buxar.

.... Petitioner-Respondent/s

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Appearance :

For the Appellant/s : Mr. P. N. Shahi, Senior Advocate
Mr. Manish Kumar, Advocate

For the Respondent/s : Mr. Ashok Kr. Singh, Senior Advocate
Ms. Manisha Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 26-07-2017

Seeking exception to an order dated 27.11.2009 passed by



the Writ Court in Civil Writ Jurisdiction Case No.114 of 2009; this appeal has been filed under Clause 10 of the Letters Patent.

Apart from the fact that there is an inordinate unexplained delay of more than six years in filing of this appeal, when we consider the matter on merit; we find that the learned Writ Court has not committed any error in allowing the writ petition.

The chequered history of the case is in detail discussed by the learned Writ Court in the impugned order and the only objection with regard to appointment granted to the petitioner as an Electronic Typists in the Department in question in pursuance to a process of appointment initiated vide Circular No.8167 dated 21st June, 1966 was that the petitioner's appointment was not duly approved by the Bihar Subordinate Service Selection Board (hereinafter referred to as 'the Board') and as approval of the said Board has not been obtained, his induction into the Department was incorrect. It was also pointed out that in pursuance to the certain directions issued by this Court in Letters Patent Appeal No.946 of 2003 and various other analogous cases, a five member committee found the appointment of the petitioner to be illegal and, therefore, the impugned action was taken. If we analyze the report of the five men committee and the reasons that weighed with the Department in terminating the service of the petitioner, we find that the only ground raised by the Government in the writ petition and in this



appeal is that the appointment of the petitioner was illegal, as the petitioner was appointed without any approval obtained from the Board. However after considering the counter affidavit filed by the State Government and the averments made in para 9 thereto along with the documents annexed thereto, the learned Writ Court found that in case of the petitioner, the recommendation of his appointment made was forwarded to the Board, the Chairman and Secretary of the Board were asked to give their opinion with regard to appointment of the petitioner and it was found by the learned Writ Court that the Secretary and the Chairman informed the Department to proceed with the matter as the Board has never conducted any selection test for the post of Typist for electronic typing and obtaining permission of the Board is not required, it was indicated by the Board that with the concurrence of the competent authority to the Department, the process of appointment can be proceeded with. Finding that the appointment was made after following due process and with the approval of the competent authority of the Department and holding that the Circular in this regard is not applicable, the learned Writ Court has decided the issue and we find no error in the same warranting reconsideration. The objection with regard to non-approval by the Board was looked into by the learned Writ Court and for the reasons as are recorded hereinabove, the Writ Court found that in this case, the same was not required and submission of the Government in



the counter affidavit on the issue was denied, we find no error in the order passed by the learned Writ Court warranting reconsideration. Accordingly, the appeal is dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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