

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8702 of 2014

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1. Binod Kumar Bharti s/o Sri Kameshwar Paswan resident of village -
Balahi, Via - Budhma, P.S. and District - Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Bihar,
Patna.
2. The Collector-cum-District Magistrate, Madhepura.
3. The Deputy Collector, District Establishment, Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarnath Jha

For the Respondent/s : Mr. Manoj Kr. Ambastha

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**

ORAL ORDER

3 09-08-2017 Heard both sides.

In this writ petition the petitioner seeks quashing of the order dated 23.10.2003, as contained in memo No. 245-1 (Estb.), issued under the signature of Collector, Madhepura (Annexure-2) whereby service of the petitioner was terminated on the ground that somebody else impersonated the petitioner at the examination and, on such, the petitioner was appointed adopting fraudulent means.

The learned counsel for the petitioner submits that for the same occurrence FIR, being Madhepura P.S. case No. 52 of 2004 under Section 467, 468, 471, 420 of the IPC, was registered against the petitioner and others but the petitioner has been acquitted in the aforesaid case. The learned counsel further submits that earlier petitioner filed CWJC No. 16455 of 2004 and the same was dismissed on 25.07.2007 for non prosecution. The petitioner filed restoration petition being MJC No. 1068 of 2013 and the same was dismissed with a liberty to the petitioner that he may file a fresh writ



petition. Thereafter, the petitioner filed the present writ petition. The learned counsel for the petitioner submits that petitioner was dismissed from service without giving him any notice and the order is bad as has been passed in violation of principles of natural justice.

On the other hand the learned counsel for the State submits that Bihar Public Service Commission has reported that somebody else impersonated the petitioner and appeared at the examination on the basis of which the petitioner was selected and his name was recommended for selection and appointment but later on during the course of enquiry, it transpired that petitioner illegally and fraudulently got appointment and when this fact was brought before the competent authority, the Collector, who had earlier appointed the petitioner, has dismissed the petitioner from service.

The petitioner was appointed in the year 2003 but from the report of BPSC it transpired that petitioner set up another person to appear at the examination at his place after affixing the photographs in the application form and when this fact came to the knowledge of competent authority the petitioner was dismissed from service. Thereafter, the petitioner filed writ petition being CWJC No. 16455 of 2004, which was dismissed for non prosecution in the year 2007. The restoration petition, MJC No. 1068 of 2013 was filed after six years of dismissal of CWJC No. 16455 of 2004, which was also dismissed with liberty to the petitioner to file fresh writ petition.

It appears that service of the petitioner was terminated in the year 2004 itself on the ground that petitioner adopted fraudulent modes for getting appointment and after about 10 years the petitioner again moved this court against the order of dismissal. Earlier writ petition, CWJC No. 16455 of 2004, for the same relief, was dismissed in the year 2007 for non prosecution



but the petitioner filed restoration petition after more than six years.

Considering the facts aforesaid, I am not inclined to interfere with the impugned order at such a belated stage besides the fact that petitioner got appointment by adopting fraudulent means. This writ petition is, accordingly, dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

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