IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.806 of 2016
In
Civil Writ Jurisdiction Case No.22196 of 2011

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Bhupendra Choudhary Son of Late Mishri Choudhary R/o Village + P.O. Akhtiarpur, P.S. Sarairanjan, Dist. Samastipur.

... ... Appellant/s

Versus

1. The State of Bihar.
2. The Secretary, Urban Development, Bihar, Patna.
3. Board of Directors, Samastipur Municipality, Samastipur.
4. Smt. Anita Ram, Adhyaksh, Samastipur Municipality, Samastipur.
5. Sri Jamal Asgar Khan, Vice Chairman, Samastipur Municipality, Samastipur.
6. Sri Shaket Bihari Sharma, the Executive Officer, Samastipur Municipality, Samastipur.
7. Ram Binod Singh Son of Sri Raj Kumar Singh R/o Village Sultanpur, P.O. & P.S. Mohiuddin Nagar, District Samastipur A/p working as Clerk, Samastipur Municipality, Samastipur.
8. Ashok Kumar Gupta Son of Bhola Prasad Gupta R/o Mohalla Gudari Bazar, Ward no. 6, P.O. & P.S. Samastipur, A/P working as Clerk, Samastipur Municipality, Samastipur.

... ... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rewti Kant Raman
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

9 28-11-2017 The delay of 76 days is condoned. I. A. No.3222 of 2016 is allowed. Matter is taken up on merits.

In absence of any clear finding or material to show that the appellant's appointment in the very first place was in accordance with law merely because he was made to work as per his assertion as a Tax Collector, that cannot beget him promotion to the said post as a matter of right. There is dispute whether the appellant was a Collie or a Peon. The chain of promotion to Tax Collector is not indicated in any of the arguments or assertions, therefore, the learned Single Judge has rightly given finding of Rule 103 of the Bihar Service Code to the appellant for consideration by the respondent Samastipur Municipal Corporation. The expectation of the appellant to be promoted on a substantive basis as a Tax Collector cannot be accepted. The finding given by the learned Single Judge cannot be said to be erroneous which needs any rectification.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

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