

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3914 of 2016

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Pratyush Kiran Son of Sri Ishwar Prasad Singh resident of South of Maurya Class Industry, Anand Vihar Colony, P.O. Bahadurpur, Housing Colony, P.S. Agamkuan, District - Patna

.... Petitioner/s

Versus

1. Bihar State Beverage Corporation Ltd., through its Managing Director, Vidyut Bhawan, 1st Floor, Jawaharlal Nehru Marg, Patna 1
2. The Managing Director, Bihar State Beverage Corporation, Vidyut Bhawan, 1st Floor, Jawaharlal Nehru Marg, Patna 1
3. General Manager Human Resource and Administrative, Bihar State Beverage Corporation, Vidyut Bhawan, 1st Floor, Jawaharlal Nehru Marg, Patna 1

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh, Adv.

For the Respondent/s : Mr. Girijish Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 04-04-2017

Heard Mr. Bipin Bihari Singh, learned counsel for the petitioner and Mr. Girijesh Kumar, learned counsel for the State.

The petitioner is aggrieved by the decision taken by the Board of Directors in their 51st Meeting held on 21.12.2015 at Agenda No. 51-11 whereby a decision has been taken to repatriate petitioner and 14 other employees of the Industrial Cooperative Federation alongwith 24 workers of the Pandaul Cooperative Spinning Mill and 3 workers of the Land Development Bank, who have also been repatriated. The resolution also conceives of engagement of 64 workers following the Advertisement dated 16.10.2014.



The facts are not in dispute. The petitioner is an employee of the Industrial Cooperative Federation and when the federation fell into stagnation that the petitioner along with 14 others were rehabilitated in the Corporation. This fact is admitted by the Corporation in paragraph 6 of the counter affidavit. Now while the resolution unilaterally applies to all workers from the Pandaul Cooperative Spinning Mill, the Industrial Cooperative Federation and the Land Development Bank who are on deputation with the Corporation in directing their repatriation, in so far as the present petitioner is concerned, the answer is found at paragraph 6 in which it is stated that since in the knowledge of the Corporation, the petitioner was not a regular employee of the Industrial Cooperative Federation nor did he submit his papers to support this fact, that such repatriation has taken place. It is considering the foundation facing the repatriation of the petitioner that the Industrial Cooperative Federation was added as a party and Mr. S.K. Ranjan learned counsel for the Cooperative Federation has admitted in reference to the counter affidavit that the petitioner is a regular employee of the Cooperative Federation and is a validly deputed employee to the Corporation having been selected after the interview so held in this regard.

Mr. Girijesh Kumar learned counsel for the Corporation contesting the argument has submitted that while at the relevant time a



resolution was passed as such in December, 2015 but since after April 2016, the situation has changed and since the prohibition law has been enforced in the State, the Corporation itself is moving towards disinvestment. He thus submits that even otherwise all those personnel who had been taken on deputation would be facing repatriation sooner or lesser.

I have heard learned counsel for the parties and I have perused the records and as I have already observed there is no dispute on facts except that while the Corporation doubted the initial appointment of the petitioner in the Cooperative Federation which perhaps is one of the reason for his repatriation as manifest from paragraph 6 of the counter affidavit but the policy decision so put to challenge at Annexure-4 taken by the Board of Directors of the Corporation does not indicate anything in this regard. In case, the reason for repatriation of the petitioner as stated in paragraph 6 of the counter affidavit, is the absence of documents to support his initial appointment in the Cooperative Federation, then in view of the stand taken by the Cooperative Federation in the counter affidavit filed in the proceeding, the opinion of the Corporation is held a misconception for the petitioner is a validly appointed employee of the Cooperative Federation and to that extent the opinion does not hold good.

In that view of the matter and considering the stand taken by



the Corporation in paragraphs 6 and 8 of the counter affidavit where they have admitted that the deputation of the petitioner and others was by way of rehabilitation and it is not in dispute that the functioning of the Corporation has not come to an end rather the Corporation is much functioning, then an action taken for rehabilitation cannot be negated till a situation is warranted as such.

Since the opinion of the Corporation for repatriation of the petitioner as reflecting from paragraph 6 of the counter affidavit of the Corporation is the cloud on his initial appointment, the same having been removed, the Managing Director of the Corporation is directed to consider the case of the petitioner for his continuation in the corporation bearing in mind that the selection of the petitioner was by way of rehabilitation and which situation has not changed rather continues as on date.

Let a decision in this regard be taken within four weeks from the date of receipt/production of a copy of this order

The writ petition is allowed with the direction aforementioned.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.04.2017
Transmission Date	NA

