

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6412 of 2016

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Baidyanath Singh, son of Late Makhan Singh, resident of village - Yousufpur, P.O.
- Khanjahachak, P.S. Lalganj, District - Vaishali.

.... Petitioner/s

Versus

1. The Union of India through the Secretary-Cum-D.G., Department of Post, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Director, Postal Service (HQ), Office of the Chief Post Master General, Bihar Circle, Patna.
4. The Assistant Director (Staff), Office of the Chief Postmaster General, Bihar Circle, Patna.
5. The Superintendent of Post Office, Vaishali Division, Hajipur.
6. The Postmaster, Hajipur Head Post Office, Hajipur.

.... Respondent/s

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Appearance :

For the Petitioner	:	Mr. Madhusudan Kumar, Advocate
For Union of India	:	Mr. S.D.Sanjay (Addl. S.G.)
		Mr. Rakesh Kumar Sinha, CGC

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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: 28-01-2017

When the petitioner failed to get any relief from the Central Administrative Tribunal, Patna Bench, Patna in O.A. No. 379 of 2012, he has decided to challenge the order dated 04.02.2016 where his OA has been rejected.

The prayer made by the petitioner before the Tribunal was that since he has officiated on the post of Deputy Postmaster at Hajipur Head Office he be given the monetary benefit including pay-scale and corresponding pension on the said pay-scale after his



superannuation in the year 2010.

Submission of the counsel for the petitioner is that there are certain cases in which for similar kind of situation, the Hon'ble Supreme Court has given a direction in similar terms for payment. Attention of the Court has been drawn to the decision of *Arindam Chattopadhyay and others Vs. State of West Bengal and others*, reported in (2013) 4 SCC 152. The relevant paragraph being paragraph 13.

The said decision does not help the petitioner in any manner because in that case the concerned authorities made the appellants work on substantive basis for 14 long years without giving regular promotion. In the present case, from perusal of Annexure-3 to the writ application, it is evident that some kind of scribbled note has been produced as the basis for asking the petitioner to officiate as Deputy Postmaster in absence of regular Deputy Postmaster at that point of time on day-to-day basis. This arrangement, the petitioner claims to have continued till 16.12.2008 to 31.05.2010 i.e. a year and a half.

Yet another decision, which has been produced before this Court, is of a Division Bench, which is the case of Pramila Devi Vs. The State of Bihar and others, reported in 2016(4) PLJR 823. The relevant paragraph is paragraph 4. Here the Division Bench had



observed :

“It is now well settled, where an officer competent to hold the higher post is made to officiate on a higher post not for a short period or as a stop gap arrangement, but for a considerable long period, the post being higher post and involving higher duties and responsibilities, the person would be entitled to full benefits of that post.”

From the observation of the Division Bench, it is evident that the person must be competent to hold the higher post. In this particular case, the petitioner was not even HSG-II post holder and the post of Deputy Postmaster is that of HSG-I. A further re-look of Annexure-3 would show that the Deputy Postmaster was reported to be sick on that date, therefore, petitioner was asked to look after his work and Annexure-3 cannot be said to be an office order of the competent authority asking the petitioner to officiate as a Deputy Postmaster. Obviously, Annexure-3 is a begotten kind of note not even fit to be called an order, which is the basis for the demand which the petitioner is making.

The claim of the petitioner has been rightly rejected by the Tribunal because he does not fit the bill or the principles as laid down either by the Division Bench of Patna High Court or even the Hon'ble Supreme Court. It is basically a via media to earn double



digit promotion on a post which the petitioner would not even have dreamt of reaching in his length of service left. The OA was more an effort at wagering than assertion of any constitutional or statutory right, for such relief.

Writ application is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	31.01.2017
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