

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.329 of 2017

In
Civil Writ Jurisdiction Case No.11594 of 2007

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1. The State of Bihar, through the Secretary, Science and Technology Department, Government of Bihar, Patna.
 2. The Director, Science and Technology Department, Government of Bihar, Patna.
 3. The Secretary, Council of Science and Technology Department, Govt. of Bihar, Patna.
 4. The Project Director, Council of Science and Technology Department, Govt. of Bihar, Patna.

... .. Respondents-Appellant/s

Versus

Lal Babu Singh, Son of Sri Kewal Singh, resident of village - Dayalchak, P.S. Doriganj, P.O. Kotwapatti Rampur, District - Chapra (Saran).

... .. Petitioner-Respondent/s

Appearance :

For the Appellant/s : Mr. Jitendra Kumar, AC to AAG-14

For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-10-2017

There being a delay of 115 days in filing of this appeal, I.A.No.1240 of 2017 has been filed seeking condonation of delay.

Keeping in view the reasons indicated in the application, the delay in filing of the appeal is condoned.

Interlocutory Application No.1240 of 2017 stands allowed.

Seeking exception to an order dated 27.09.2016 passed by the Writ Court in CWJC No.11594 of 2007, whereby the Writ Court has allowed the writ petition and the disciplinary proceedings initiated against the respondent-employee has been quashed and he



has been directed to be reinstated with full back wages, this appeal has been filed by the State of Bihar under Clause 10 of the Letters Patent.

The writ petitioner- respondent herein was proceeded against and action taken against him and thereafter based on a disciplinary enquiry, his services were terminated vide order dated 27.08.2007. The termination having been set aside by the Writ Court, this appeal by the State Government.

In the year 1984, the Bihar Council on Science and Technology was established by the State Government and certain Class IV posts on daily wages were created. For appointment of one of such posts, the writ petitioner-respondent herein submitted an application and he was appointed on 01.04.1987. After two years, in the year 1989, a Committee was constituted for making regular appointment and the petitioner's claim was considered for regular appointment. He was called for interview on 06.01.1990, but he was not selected. Thereafter, in the year 1993, an advertisement was published for filling up of certain posts of Centre Attendant. The writ petitioner appeared and was called for an interview. However, no action was taken and, therefore, seeking regularisation and absorption, the petitioner filed a writ petition before this Court being CWJC No.3263 of 1995. The petition was



disposed of directing the competent authority to consider and take a decision on the representation of the petitioner. When nothing was done, contempt proceedings were initiated. However, the petitioner withdrew the contempt application and filed a second writ petition being CWJC No.71 of 1998 seeking regularization in service. However, in the meanwhile, another advertisement was published and when petitioner's candidature was considered and he was appointed as the Centre Attendant vide order dated 07.09.1998 with effect from 08.09.1998. The said writ petition was also disposed of. However, when he was not granted regular appointment back dated, another writ petition was filed. In the meanwhile, certain departmental proceedings were held against the petitioner. A charge sheet was issued to him on 22.06.2005 and the allegations against the petitioner were with regard to forgery and interpolation of document submitted by him at the time of appointment. The departmental enquiry was proceeded and the impugned action taken.

Writ Petitioner- respondent herein challenged the enquiry on various grounds and the learned Writ Court after going through the entire enquiry proceedings and other materials available on record found that the charges were not proved. The allegation against the petitioner was with regard to submission of a forged certificate



which is not established from the material available on record. The learned Writ Court, in detail, went into the charges against the petitioner and found that even though it is alleged against the petitioner that he had submitted certificate by changing his date of birth and based on a Class IX certificate, he said to have changed his qualification and shown him as an under-graduate with a change of date of birth, the learned Writ Court examined each and every aspect of the matter in detail and found that the charges were not proved and the finding of the enquiry is perverse and contrary to the material available on record and interfered with the order of termination. The learned Writ Court found that a criminal case was instituted by Police Station Kotwali being Kotwali P.S. Case No.314 of 2007. The Investigating Officer has submitted a report and pointed out victimization and harassment of the petitioner and trying to implicate him falsely in the case in question. The learned Writ Court gave reasons for holding that the charges levelled against the petitioner are not proved and the reasons are contained as reasons (a) to (e) and they read as under:

“(a) The application form at Annexure-K is dated 15.11.1993 when the last date for submitting the application for the post of Centre Attendant expired on 12.3.1993 as per Annexure-34 which is the advertisement. Obviously the petitioner was not appointed on such application and the actual application is present at



Annexure-21. Meaning thereby the foundation itself is incorrect.

(b) The certificate allegedly submitted by the petitioner in support of his Intermediate qualification is of the year 1991 but neither the Intermediate certificate in question is on record nor there is any evidence on record to conclude that the petitioner had deposited the same.

(c) The list appended by the petitioner in his reply to the counter affidavit of respondent no. 5 at page 156 mentions his date of birth as 14.3.1967 and his educational qualification is 9th pass. The list contains the name of 134 applicants who had applied for the post of Centre Attendant in the year 1993 and thus if the petitioner had been applied as an undergraduate as mentioned at charge No. 1 then there was no occasion for the respondents to mention his qualification as 9th pass.

(d) The list of candidates present at Annexure-T which is the document of 'the Council' mentions at page 217 the qualification of the petitioner as 9th pass, and his entry in service as 1.4.1987.

(e) The other charge against the petitioner is of having deposited a forged matriculation certificate of Annual Examination held in the year 1980. The falsity of this charge is apparent on the face of it for if the petitioner would have been a matriculate of the year 1980 then he had no occasion to mention his qualification as 9th pass when he filed his application for appointment as a daily wage labourer in the year 1987 or when he filed his application for regular appointment for the post of Centre Attendant in the year 1993. The charge is apparently preposterous. The petitioner in fact has passed his matriculation examination from the Bihar Sanskrit Siksha Board in the year 2005 and the mark sheet is present at Annexure-22."

Considering the fact that the learned writ court has adverted to consider each and every question meticulously in its right



perspective and has given a reasoned order for interfering with the order of punishment, we see no reason to take a different view or interfere into the matter. The appeal being devoid of merit and substance stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.10.2017
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