

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4099 of 2016

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Ramendra Prasad Singh, Son of Late Bindeshwari Prasad Singh, Resident of
Village - Kumhwan, P.O. - Kumhwan, District - Jehanabad.

.... Petitioner/s

Versus

1. The Union of India through Secretary, Department of Posts, Ministry of I.T. and Communication, Dak Bhawan, New Delhi - 110001.
2. The Chief Postmaster General, Bihar, Patna - 800001.
3. The Director of Postal Services (HQ), O/o Chief Postmaster General, Bihar, Patna.
4. The Senior Superintendent of Posts, Gaya Division, Gaya.
5. Sub-Divisional Inspector (Posts), Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Samrendra, Advocate
For the Respondent/s : Mr. S.D. Sanjay, ASG
Mr. Ram Anurag Singh, Advocate

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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: 17-01-2017

Heard learned counsel for the petitioner and learned
Additional Solicitor General of India for the Union of India.

There are two orders. One is order dated 25.03.2015,
passed in O.A. No. 915 of 2012, which is under challenge and the
other is order dated 06.05.2015, passed in Review Application No. 13
of 2015.

By virtue of both the decisions the claim of the
petitioner for payment of back wages has been negated and rejected
on account of reinstatement in service.



The short facts, which are relevant for adjudication of the present writ application, is that the petitioner was dismissed from service vide order dated 03.09.1997 on his conviction in a criminal case. The petitioner came to be reinstated on 13.03.2009 pursuant to his acquittal by the appellate court. He moved the respondent authorities for payment of his wages for the period of his dismissal till the period of his reinstatement on the ground that since he was absolved by the appellate court it amounts to wiping clean his past.

The Tribunal accepted the principle that the post has been wiped clean but then it was also considered by the Tribunal that due to the petitioner being “Put Off Duty” due to dismissal from service amounted to no work from the date he was dismissed till the date of his reinstatement after acquittal.

Petitioner was working as Extra Departmental Branch Postmaster in Gramin Dak Sewa. Such a post is not that of a permanent Government servant under the Postal Department, but is more as an agent for which he is to be paid Time Related Continuity Allowance, on the basis of actual work performed by such person.

In other words, there is element of principal and agent and a kind of contract for service and not of service.

If this be so, the principle, which is applicable to a permanent Government servant with regard to payment of back wages



etc., is a misnomer so far as facts of the present case is concerned.

The petitioner can only be paid on actual work performance basis and not on the notional basis on the ground of reinstatement after acquittal. He can continue to derive the benefit of his perks and privileges after reinstatement, but since he is not paid salary or wages, the demand of back wages is misplaced. The Tribunal has rightly held that period has to be treated as ‘dies non’.

The rationale and reasoning provided by the Tribunal does not suffer from any infirmity. Therefore, the writ application is dismissed. No interference is warranted with the two impugned orders.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	AFR
CAV DATE	
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