

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1703 of 2016
IN
Civil Writ Jurisdiction Case No. 9464 of 2016**

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Sumit Kumar Yadav son of Pundev Prasad Yadav resident of village -
Lachhumanwa, P.O. - Saunaha, P.S. - Palanwa, District - East Champaran.

.... Appellant/s

Versus

1. The State of Bihar.
2. Director, Bihar Administrative Reform Mission Society, General Administration Department, Government of Bihar, Patna.
3. The Collector, East Champaran at Motihari.
4. The Additional Collector-cum-Deputy Collector Establishment, East Champaran at Motihari.
5. The Deputy Collector, Land Reform, Raxaul, East Champaran at Motihari.
6. District Information Technology Manager, Motihari, District - East Champaran.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajeev Ranjan, Adv.

For the Respondent/s : Mr. Mritunjay Kumar, AC to AAG-6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 28-03-2018

Challenging the judgment dated 28.07.2016 passed in
CWJC No.9464 of 2016, the petitioner has preferred the present
Letters Patent Appeal.

2. The facts are not in dispute. The petitioner claims



that he was empanelled in the category of qualified candidates by the Bihar Prashashnik Sudhar Mission Society, East Champaran at Motihari. The panel was published on 06.08.2013 and out of 311 selected candidates, 189 candidates had already joined up to 02.09.2014 as Executive Assistant in the District of East Champaran at Motihari in different departments. It is the case of the petitioner that vide memo no.806 dated 04.09.2015 issued under the signature of respondent no.3, the Collector, East Champaran at Motihari, 76 candidates were appointed in different departments. He claims that his name was placed at serial no.5 in the list which has been enclosed as Annexure-2 to the writ application.

3. Learned counsel submits that the petitioner was asked to submit his joining in the office of respondent no.5, the D.C.L.R., Raxaul, East Champaran at Motihari but when he went there, his joining was not accepted. One Jitendra Kumar was transferred and had already joined at his place in the office of respondent no.5 and, therefore, his joining was not accepted by the respondent no.5. The grievance of the petitioner is that whereas several persons have been allowed to join in the district of East Champaran, but the case of the petitioner is not being considered.

4. A counter affidavit was filed on behalf of the respondent nos.1 to 6 in which it is stated that validity of the panel



was extended only up to 13.02.2016. The panel was prepared in the strength actual vacancies plus 30% thereof in the district. Later it was decided to include sufficient number of successful candidates keeping in view future need of the district, block and Sub-Divisional level offices. Accordingly, a panel of 311 candidates was published on 06.09.2013. The writ petitioner was selected against the vacant post of Executive Assistant in the office of D.C.L.R., Raxaul, but during the pendency of the process of selection and appointment, considering urgency of the work the vacancy available in the office of D.C.L.R., Raxaul was filled up by transfer of another working Executive Assistant. Since this fact was not brought into the notice of the appointing authority, Annexure-2 of the writ application was issued, it is only in these circumstances, the D.C.L.R., Raxaul did not accept the joining of the writ petitioner.

5. It is categorical stand of the respondents that even as the matter of posting of the writ petitioner in another office was under process, in the meantime, the panel expired. As such writ petitioner could not be adjusted/re-appointed.

6. In the aforesaid circumstances, the learned Writ Court has refused to grant reliefs prayed for on behalf of the petitioner.

7. Since these are the matters of contractual



appointment on hiring basis and the panel in which the petitioner was one of the candidates has already expired, we do not find any reason to entertain this appeal and issue a mandamus for appointment/adjustment of the writ-petitioner at this stage.

8. The Letters Patent Appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
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