

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10079 of 2017

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Shyamjee Prasad Son of Late Chandrika Prasad Resident of Village and P.O.-
Ankupa, P.s.-Kutumba and Distt.-Aurangabad.

.... Petitioner/s

Versus

1. The Union of India through Principal Secretary Telecom Department of Communication, Govt. of India, New Delhi.
2. The Postmaster General, Bihar Circle, Patna Bihar.
3. The Superintendent of Post Office, Distt-Aurangabad
4. The Inspector of Post Office, Aurangabad West Sub division, Aurangabad.
5. The Complaint Inspector, Postal Division, Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Verma, Adv.

For the Respondent/s : Mr. S.D SANJAY, ADDL. SOC. GEN.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 01-10-2018

Heard Mr. Anirudh Kumar Verma, learned counsel for
the petitioner.

It is feeling aggrieved by the judgment and order dated
02.12.2016 passed in O.A. No. 839 of 2016 by the Central
Administrative Tribunal, Patna Bench, Patna whereby the original
application has been dismissed that this writ application is filed
before this Court.

Mr. Anirudh Kumar Verma appears for the petitioner, the



respondent-Union of India and its authorities are represented by Mr. S.D. Sanjay, learned Additional Solicitor General, assisted by Mr. Abhay Shankar Jha, learned Central Government Counsel.

Rather peculiar set of facts accompany the present writ petition. The father of the petitioner was working as an Extra Departmental Branch Post Master (E.D.B.P.M. for the sake of brevity) having been appointed with the Respondent Department at village Ankuppa P.S. Kutumba in the District of Aurangabad. He got promoted and it is by virtue of this promotion that the petitioner was allowed to work at his place. In a formal selection process so initiated for filling up the post, one Ramashish Singh was appointed on 14.07.1983. Since the petitioner has allowed to discharge the duty of the post on the promotion of his father that he questioned the appointment of the said Ramashish Singh in Title Suit No. 74 of 1983/65 of 1983. The explanation for filing such suit is that the Central Administrative Tribunal Act, 1986 came into force thereafter. The suit was decreed in favour of the petitioner by the learned Munsif, Aurangabad vide judgment and decree dated 14.07.1983 whereby the appointment of the said Ramashish Singh was declared illegal. Feeling aggrieved the said Ramashish Singh, filed Title Appeal No. 16 of 2006 which has been dismissed on 02.08.2010. No step was taken by the petitioner since thereafter to



execute the decree until filing of the present application before the Tribunal in the year 2016, giving rise to O.A. No. 839 of 2016 seeking appointment to the post. The Tribunal having examined the rival submissions has dismissed the original application holding it barred by limitation and feeling aggrieved, the petitioner is before this Court.

We have heard learned counsel for the parties and we have perused the records. There is absolutely no infirmity in the order passed by the Tribunal for the cause of action, if any, that arose for the petitioner, was in the year 1983 or on dismissal of the appeal in 2010. No step was taken by the petitioner to enforce the decree whatsoever worth it was, either before the Tribunal which had come into being by the enforcement of 'the Act' or before the appropriate forum. Section 21 of 'the Act' prescribes the limitation of one year from the date any cause of action arises. The discussion above would confirm the opinion expressed by the Tribunal that the cause if any, so raised by the petitioner was hopelessly barred.

Even on merits of the contest we are of the opinion that the petitioner had no case because our repeated query as to the enforceable rights vested in the petitioner to seek such appointment remain unanswered. The appointment of E.D.B.P.M. are regulated under the E.D.B.P.M. rules as amended from time to time. Mr.



Verma has not been able to place before us any rule regulating the appointment of E.D.B.P.M. which enables a son of E.D.B.P.M. to an appointment against the post fallen vacant on the promotion of the father. In fact, even if there would be any such rule, the cause of action for the petitioner to seek such relief arose in the year 1982 on the promotion of his father. As we have noted, learned counsel for the petitioner has failed to demonstrate either any enforceable right in the petitioner to seek such appointment or any corresponding obligation which the respondents failed to perform.

For the discussion above, we are persuaded to hold that neither on merits nor on the issue of delay was the application filed before the tribunal, worthy of indulgence and has been rightly dismissed.

In result the writ petition is dismissed.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Priyanka/Devendra

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.11.2018
Transmission Date	NA

