IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1150 of 2017
IN
Civil Writ Jurisdiction Case No. 13951 of 2013
With
Interlocutory Application No. 6026 of 2017

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Kaushal Kant, Son of Late Musafir Prasad Yadav, Resident of 802, Raod No.02, Janki Nagar, Hanuman Nagar, Kankarbagh, P.S.- Patrakar Nagar, District- Patna. Earlier resident of At B/74, Phase 1, Ashiana Nagar Colony, P.S. Rajiv Nagar, District Patna.

.... Petitioner/Appellant

Versus

1. The State of Bihar through the Principal Secretary, Finance Department, Bihar, Patna.
2. District Magistrate, Patna.

.... Respondents / Respondents.

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Appearance:

For the Appellant/s : Ms. Shally Kumari, Advocate.

For the Respondent/s : Mr. Rohitabh Das, AC to AAG 10.

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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: 06-04-2018

Re. I.A. No. 6026 of 2017.

1. Today a Supplementary Affidavit has been filed on behalf of the petitioner-appellant enclosing therewith photocopies of medical reports showing illness of the appellant's mother.

2. In view of the materials brought on the record we allow the Interlocutory Application (I.A. No. 6026/2017) and condone the delay of 3 years and 63 days in filing of the present Letters Patent

Appeal.

Re. L.P.A. No. 1150 of 2017.

3. Learned counsel for the appellant as well as learned counsel for the State have argued on the merit of the case.

4. The present Letters Patent Appeal has been preferred by the petitioner in CWJC No. 13951 of 2013 with a prayer to quash and cancel that part of the order dated 29.06.2013 issued by the District Magistrate, Patna by which while treating the petitioner to be a Clerk he has been transferred in the District Revenue Branch, Patna and has been deputed to District Vikash Shakha, Patna from Danapur Treasury. The petitioner also prayed for a mandamus commanding the respondent authorities to refrain from giving effect to the directions issued under the aforesaid order dated 29.06.2013 insofar as it relates to the petitioner and to allow the petitioner to continue with his present place of posting.

5. It is the case of the petitioner that he was initially appointed against the post of Clerk under the Directorate of Treasury & Accounts on 21.06.1996 on compassionate ground due to the sad demise of his father, who died in harness while serving as L.R.D.C. in the services of the State Government. It is submitted that by the resolution dated 25.01.1999 issued by the Finance Department of the State Government it was provided that the service conditions of all the

employees of the Treasury Directorate would not be affected in any manner subsequent upon the dissolution of the said Directorate and in terms of Clause 6 of the said resolution it was prescribed that the transfer of the old employees of the Treasury would be done from a Treasury to a Sub-Treasury or Treasury in other districts and the District Magistrate would be competent to transfer such an employee from a Treasury to another Treasury or Sub-Treasury. It is the case of the petitioner that old employees of the Treasury Cadre were to be transferred to a Treasury or Sub-Treasury alone. He has relied on Annexure-3 to the Writ Petition in this regard.

6. In the Counter Affidavit filed on behalf of the respondent no. 2 it has been submitted that the petitioner had been appointed on the post of Clerk on 21.06.1996 on compassionate ground. All the non-gazetted employees of the Treasury have been brought under Collectorate Cadre under the administrative control of the District Magistrate as per the resolution bearing no. 593 dated 21.07.1993 (Annexure-1 to the Writ Application) and resolution no. 1096 dated 22.02.2006 (Annexure-6 to the Writ Application) issued by the Finance Department, Bihar, Patna. They have been treated as Clerks of Collectorate Cadre and the District Magistrate has been assigned power to transfer them in any office within the district. It is submitted that those Clerks, who have completed more than three

years in one office, have been transferred on administrative grounds for smooth functioning of the administration and this has been done as per the government rules, as mentioned in the Cabinet Resolution No. 434 dated 01.03.2007 of the Cabinet Co-ordinate Department, which clearly lays down the procedure to be adopted for transfer of government staff. It is further submitted that the petitioner, having completed more than four years in Danapur Treasury Office, has been transferred to the District Revenue Office and the order of transfer of the petitioner has been issued in accordance with law.

7. It is the case of the respondents that the petitioner was appointed much after dissolution of the Directorate of Treasury and the resolution dated 25.01.1999 has been issued for the employees of the erstwhile Directorate, therefore, he cannot claim himself as an old employee of the Directorate of Treasury & Accounts.

8. Having heard learned counsel for the appellant as also learned counsel representing the State we find force in the submission of the learned counsel representing the State.

9. The admitted case of the petitioner is that he was appointed on 21.06.1996. In Paragraph 9 of the Writ Application he has himself stated that vide resolution dated 21.07.1993 the Finance Department of the State Government decided to dissolve the Directorate of Treasury & Accounts under the State Government and

the administration of the Treasuries within the State were handed over to the administrative control of the District Magistrates / Deputy Commissioners of different districts in the State of Bihar. The resolution dated 25.01.1999, as contained in Annexure-3 to the Writ Application, clearly states in the very first paragraph that the control of the employees of the Treasury & Accounts Directorate has been handed over to the District Magistrate of the concerned district in the interest of administration. It is apparent that the resolution dated 25.01.1999 is in respect of those employees who were there in the Treasury & Accounts Directorate prior to the dissolution. We find that the entire contention of the petitioner in this regard is misconceived and a kind of misplaced submission and he has only attempted to take a chance by filing this Writ Application without there being any ground to assail the impugned order.

10. We find no reason to interfere with the impugned order dated 29.06.2013 issued by the District Magistrate, Patna by which the petitioner has been transferred in District Revenue Branch and has been deputed at District Vikash Shakha, Patna from Danapur Treasury. The learned Writ Court has rightly dismissed the Writ Application in the facts and circumstances of the case.

11. The petitioner has once again taken a chance after more than three years by filing this Letters Patent Appeal on a totally

misconceived ground. Even though we have condoned the delay in filing the Letters Patent Appeal, we do not appreciate the kind of effort made by the petitioner-appellant in approaching this Court repeatedly without there being any legal or valid ground available to him to assail the impugned order.

12. The Letters Patent Appeal is accordingly dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.04.2018
Transmission Date	NA