

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1276 of 2015

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Pawan Kumar Son of Sri Charitar Prasad Yadav Resident of Village Paharpur,
Police Station Simri Bakhtiarpur, District Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
3. The Director, Panchayati Raj, Government of Bihar, Patna.
4. The Deputy Director cum Deputy Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
5. The District Magistrate, Saharsa.
6. The Deputy Development Commissioner, Saharsa.
7. The District Panchayat Officer, Saharsa.
8. The Secretary, Bihar Staff Selection Commission, Veterinary College, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Kumar Roy, Advocate
For the State	:	Mr. Hitesh Suman, AC to SC 13
For the BSSC	:	Dr. Rajan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 30-04-2018

Heard learned counsel for the petitioner and the respondent State.

2. The writ petition has been filed seeking direction upon the respondent authority to appoint the petitioner on the post of Panchayat Sewak in compliance of the order dated 13.01.2006 passed on the writ petition bearing C.W.J.C. No. 3917 of 2000 wherein the petitioner was respondent no. 5. The order dated 13.01.2006 is reproduced herein below :



“In such view of the matter, having regard to the fact that the petitioner has already been trained during the pendency of the writ petition, he be forthwith given an appointment in the place where the respondent no. 5 had been appointed and the respondent no. 5 be reverted back to the post he was earlier holding. The respondent no. 5 shall only be entitled to be appointed as and when there shall be a next vacancy to the post of Panchayat Sevak.”

3. The petitioner then filed LPA bearing LPA No. 503 of 2006 against the said order dated 13.01.2006 passed in C.W.J.C. No. 3917 of 2000 which was dismissed on 05.07.2007. By order dated 05.10.2009 the Apex Court also dismissed the SLP (Civil) No. 19859 of 2009 filed against dismissal of LPA No. 503 of 2006.

4. The instant petitioner thereafter, seems to have approached this Court by filing contempt application seeking compliance with the directions issued by the writ Court in his favour. The contempt application bearing MJC No. 100 of 2010 was dismissed on 09.09.2011 in light of the submissions made by the respondent authorities that there is no vacancy against which the petitioner could have been appointed.

5. The petitioner nearly 5 years after disposal of the said writ petition i.e. C.W.J.C No. 3917 of 2000 has filed the instant writ



petition making his claim for appointment in respect of posts which he submits were available as is evident from Annexure 9 to the writ petition. Petitioner's counsel has also relied upon the averments made in paragraph 8 of the counter affidavit to contend that 26 vacant posts were existing. This data is of the year 1999.

6. This Court finds that Annexure 9 which is being relied upon by the petitioner is dated 12.05.2009. Much subsequent thereto on 09.09.2011 the respondents have communicated lack of available vacancies on the basis of which the contempt MJC No. 100 of 2010 filed on behalf of the petitioner has been dismissed. There is no documents on record to show contemporaneous vacancy against which the petitioner should have been considered in the year 2015.

7. It is also the stand of the State the no posts are available on which the petitioner can be considered.

8. This Court finds that after the orders passed in the contempt, there is no development brought on record by the petitioner and as such the claim of the petitioner cannot be enforced by a writ petition.

9. In light of the aforesaid observations, the writ petition is devoid of any merit and is dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	



Uploading Date	
Transmission Date	

