

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1950 of 2011

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1. Sanjeev Kumar, S/O Sri Raghuraj Prasad, R/O Vill.- Patauna, P.S.- Paliganj, Distt.- Patna
2. Rajiv Kumar @ Rajiv Kumar Sharma, S/O Sri Yogendra Sharma, R/O Vill.- Birpur, P.S.- Nagwa, P.S.- Naubatpur, Distt.- Patna
3. Vishnuchit Ojha, S/O Sri Raghaw Ojha, R/O Vill.- Patauna, P.O.- Sidhipur, P.S.- Paliganj, Distt.- Patna

.... Petitioners

Versus

1. The State of Bihar
2. The Commissioner-cum-Secretary, Finance Department, Govt. of Bihar, Patna
3. The Director, Provident Fund Directorate, Finance Department, Govt. of Bihar, Patna
4. The Deputy Commissioner, Finance Department, Govt. of Bihar, Patna
5. The Joint Commissioner, Accounts Administration, Finance Department, Govt. of Bihar, Patna
6. The Secretary (Beyay), Finance Department, Govt. of Bihar, Patna
7. The Senior System Analyst & Project Coordinator, Govt. of India, Ministry of Information Technology National Information Centre (Bihar State Unit), 3rd Floor, Technology Bhawan, Bailey Road, Patna- 800015
8. The Treasury Officer, Bhojpur at Ara.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Rajendra Pd. Singh, Sr. Advocate & Mr. Rajeev Kumar Singh, Advocate.

For the Respondent/s : Mr. Niraj Kumar, AC to GA 10.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 24-01-2018

Heard learned Senior Counsel representing the petitioners and learned AC to GA 10.

2. The petitioners, who were working as GPF Data Entry Operators in the Office of the Treasury Officer, Bhojpur prior to their removal / discharge w.e.f. 06.01.2011 vide Memo No. 07 dated 06.01.2011, have moved this Court in its writ jurisdiction for quashing



of the order dated 30.09.2010 issued by the Secretary (Byaya), Finance Department, Govt. of Bihar, Patna (Annexure-2) and the order of discharge, as contained in Memo No. 07 dated 06.01.2011 (Annexure-3), passed by the Treasury Officer, Bhojpur, Ara.

3. It is the case of these petitioners that they had circulated their qualification / experience and other expertise knowledge. The office of respondents prepared a panel for appointment and that was approved by the District Magistrate, Bhojpur. On the basis of their placement in the panel, they were appointed as Data Entry Operators by order dated 15.09.1998. It is their case that they started working from different dates. Petitioners no. 1 & 2 were said to be working for about 12 years and petitioner no. 3 since 2001, i.e. about 10 years prior to their removal / discharge.

4. Learned Senior Counsel representing the petitioners has placed before this Court the impugned letters and communication, as contained in Annexures 1, 2 & 3, and submitted that there was no occasion for the Secretary (Expenditure), Department of Finance, Govt. of Bihar to direct the Treasury Officer, Bhojpur, Ara to get the Bio-data of the Data Entry Operators submitted to the service provider. Learned Senior Counsel further submits that the further direction to discharge these petitioners if they were not willing to submit their bio-data to the service provider was illegal, arbitrary and



bad in law. Learned Senior Counsel submits that in view of the fact that these petitioners were working for over 12 years in respect of petitioners no. 1 & 2 and upto 10 years in case of petitioner no. 3, prior to their discharge a notice was required to be served upon them.

5. Learned AC to GA 10 opposed the Writ Application and pointed out the pleadings brought on the record on behalf of the State respondents. It was also pointed out that earlier when the matter was taken up on 12.07.2011 by a co-ordinate bench of this Court, the Court had in fact pointed out that **“Unless the petitioners bring on record the advertisement and procedure based on which they were recruited there may not an occasion for this Court to accept their stand or their right to claim payment from the consolidated fund of the State or any of its department.”**

6. Referring to the statements made in Paragraph 6 to the Counter Affidavit of respondents no. 2 to 6, learned counsel for the State submitted that in fact no advertisement was published for purpose of appointment or for preparation of a panel of Data Entry Operators (DEOs). There was no sanctioned post for appointment on regular basis nor any pay scale was in existence for such posts. His submission is that the engagement was purely need-based/contingent and, for this purpose, the NIC office working at the district level prepared a panel of Data Entry Operators, who were willing to work



on job-rate-basis, and the concerned District Magistrates were authorized to select such DEOs out of the panel according to the requirement.

7. It was further pointed out that after implementation of Comprehensive Treasury Management & Information System (CTMIS), all the Treasuries and Sub-Treasuries of the State have been made on-line by virtue of new Computer Software and, hence, there was no need to make separate GPF deductions from the salaries of respective employees which necessitated disengagement of the petitioners. Learned counsel further pointed out the statements made in the Counter Affidavit wherein it is stated that under the CTMIS the Government took a decision to open Facilitation Centres in all the Treasuries / Sub Treasuries with the help of BELTRON and the BELTRON had been asked to engage DEOs on purely contractual basis in various Facilitation Centers of Treasuries / Sub Treasuries as well. It is in these circumstances that taking a lenient view the Finance Department issued directions to take work from the petitioners also in the Facilitation Centres / Treasuries, if they agree to work on contractual basis. The directions, as contained in Annexures – 1 & 2 to the present Writ Application, are to be judged from this point of view only.

8. Having considered the rival submissions at the bar and



upon perusal of the records, this Court finds that the empanelment of these petitioners were not pursuant to any advertisement; the fact that there was no sanctioned post and no pay-scale was provided for them are the further reasons to take a view that the petitioners cannot claim any legal right to remain on the post of Data Entry Operator or to claim appointment on the post of Data Entry Operator in government service. The petitioners not having been appointed in accordance with law could not acquire any right to seek a writ of certiorari for setting aside the impugned orders as those are not in violation of any law muchless infringe fundamental right or legal right of the petitioners.

9. The Writ Application has not merit. It is accordingly dismissed.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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