

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4453 of 2011

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Rajesh Kumar Singh, S/o Sri Brahmdeo Mahto, MIG 132, Kankarbagh Colony,
Yosoda Path , P.S. Kankarbagh Distt. Patna Petitioner

Versus

1. The State of Bihar
 2. Principal Secretary, Labour Resources, Dept. Govt. of Bihar, New Secretariat, Patna
 3. Director, Employment and Training, Govt. of Bihar, New Secretariat, Patna
- Respondents
- =====

Appearance:

For the Petitioner/s : Mr. Surendra Kumar Singh,
Mr. Sudha Chandra and
Mr. Tulika Singh, Advocates.

For the Respondent/s : Mr. Sita Ram Yadav, GP 16.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
Date: 25-01-2018

Learned counsel for the petitioner is fair enough to submit that this petitioner has no legal right to the post of Technical Assistant. Learned counsel, however, submits that the case of the petitioner may be considered on equitable grounds because the petitioner had been serving as a Technical Assistant and was absorbed by the competent authority in the year 1999 itself.

On the other hand, learned counsel representing the State submits that pursuant to the advertisement the petitioner was appointed as a Clerk and he was posted as a Clerk but the claim of the petitioner is that he was posted as a Clerk against the vacant post of Technical Assistant. The fact remains that the petitioner was posted as a Clerk in his own pay-scale vide Directorate letter no. 1611 dated



30.06.1998. Thus, the stand of the State is that the Directorate had inadvertently shown him as Technical Assistant instead of Clerk at some places in the transfer letters and when these were detected, corrigendum letters were issued. Learned counsel also submits that the post of Technical Assistant is an ex-cadre post of Clerk where the petitioner was never appointed.

In the aforesaid view of the matter, considering the categorical stand of the State and the submission of the learned counsel representing the petitioner accepting the position that in law perhaps his client may not have a case, I do not find any reason to interfere with the impugned order in the present Writ Application because, in my opinion, this Court sitting under Article 226 of the Constitution of India will not exercise its extra-ordinary power to grant a discretionary relief in a case where the petitioner does not have any legal right to claim his appointment on the post of Technical Assistant. A plea of equity cannot be accepted where the petitioner has failed to establish his legal right.

The Writ Application has thus no merit. It is accordingly dismissed.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.01.2018
Transmission Date	N/A

