IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19101 of 2008

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Kamla Tiwary, son of Late Hira Tiwari, resident of village-Perhap, Police Station-Sahar, District- Bhojpur, at present residing at Shankar Nagar, Chandawa, Police Station- Nawada Ara, District- Bhojpur.

.... Petitioner

Versus

1. The State of Bihar through Commissioner-cum- Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Commissioner-cum-Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Additional-cum-Deputy Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
4. The Collector, Buxar, Police Station and District- Buxar.
5. The Circle Officer, Rajpur, Police Station-Rajpur, District-Buxar.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Arun Kumar Singh -4, Advocate
Mr. Dahrmendra Kumar Singh, Advocate

For the State : Mr. Kumar Kamal Nayan, A.C. to S.C.28

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 12-02-2018

Heard learned counsel for the petitioner and learned counsel for the State.

2. In this case, the petitioner was appointed as *Amin* in the year 1972 and later on, he became *Peskar* in the Consolidation Department and worked there from 1972 to 19.11.1995 and later on he was made clerk in the Collectoriate, Buxar and on from

20.11.1995. The petitioner has been deprived the A.C.P. on the ground that he has not passed the accounts examination.

3. Learned counsel for the petitioner submits that when the petitioner came to the Collectoriate, Buxar, he had already crossed the 50 years of age, so he is entitled to exemption from passing the accounts examination. He further submits that before 18.12.1990 no examination was conducted and where-after this letter dated 13.11.1993 came in operation, whereby exemption has been granted to cross hurdle of accounts examination and where-after the petitioner crossed the age of 50 years, so he is entitled to exemption.

4. In contrary, learned counsel for the State submits that in terms of the letter no.13.11.1993 the exemption of passing examination will be only be available to the petitioner from 18.12.1990, not prior to that and if he has not appeared in the examination, in that circumstance, the petitioner cannot claim exemption after attaining the age of 50 years.

5. Having considered the rival contentions of the parties, it is an admitted fact that the petitioner was appointed as *Amin* in the year 1972 and later on, he became *Peskar* and worked there from 1972 to 1995 and where-after he was made clerk in the Collectoriat, Buxar. Now the petitioner submits that when he came to the Collectoriate, he has already crossed the age of 50 years, so he is entitled to exemption from passing the accounts examination, but exemption is always given when a proper application before the appropriate authority is filed, who considers the same and grant the exemption, but admittedly in the present case, the petitioner has not filed any application for grant of exemption and this Court does not know whether any examination was conducted after 20.11.1995. If no examination was conducted after 20.11.1995, in such circumstance, depriving the person of having not passed the accounts examination does not arise.

6. In such view of the matter, the authority will consider whether the petitioner was given any opportunity to appear in the examination before 13.11.1993 and whether any examination was conducted after 20.11.1995 inasmuch if the petitioner files an application to exempt him from passing the account examination that will be considered by the authority concerned. If the authority finds that the claim of the petitioner is genuine, in such circumstance, the authority concerned will pass appropriate order. In case exemption is granted, the authority will consider his case for grant of A.C.P.

7. With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	13.03.2018
Transmission Date	N/A.