

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15852 of 2006

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Naresh Kumar Sinha, Son of Sri Anandi Prasad, resident of Mohallah- Jitu Lal Lane, Chowkshikarpur, P.S. Chowk, Patna City, Town & District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Secondary Education, Bihar, Patna.
3. The Director (Secondary Education), Bihar, Patna.
4. The District Education Officer, Patna.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 10461 of 2007

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Sanjay Kumar Sinha, Son of Sri Jai Krishna Prasad, residing in Flat No. B-402, Jagdeo Sarsawati Apartment, Maurya Path, Khazpura, P.S. Shastri Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Secondary Education, Bihar, Patna.
3. The Director (Secondary Education), Bihar, Patna.
4. The District Education Officer, Patna.

.... Respondent/s

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Appearance :

(In CWJC No.15852 of 2006)

For the Petitioner/s : Mr. Ajit Narayan Lall,
Mr. Amit Narayan and
Mrs. Nirmala Kumari, Advocates

For the State : Mr. H. S. Roy, A.C. to A.G.

(In CWJC No.10461 of 2007)

For the Petitioner/s : Mr. Dilip Kumar Tiwary, Advocate

For the Respondent/s : Mr. P. N. Shahi, Sr. Advocate and
Mr. Dharendra Kumar, A.C. to A.A.G.-6

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 20-02-2018

Heard learned counsel for the petitioners and the State.

2. Basically, the issue in both the cases is with regard to
the orders of termination of the petitioners on the ground that they



have been found to be forged and fabricated.

3. The Court had directed for verification of the genuineness and correctness of the order of appointment of the petitioners by the then Principal Secretary of the Department. After carrying out the direction, specific report has been submitted by the then Principal Secretary, Human Resources Development Department, Bihar, Patna which is on record, and which discloses that from the files, upon verification, it has been held that the appointment letter was issued by the then Deputy Director, Secondary Education, which was in violation of the provisions of the Personnel and Administrative Reforms Department Circular No. 16440 dated 03.12.1980 and such appointment was to be made at the level of the Directorate of the Human Resources Development Department. It has further been held that the so called letter of appointment was not issued by the Directorate which has been verified from the despatch register and the file number quoted in their letter of appointment is also not concerned with their appointment.

4. Learned counsel for the petitioners submitted that their appointment is genuine. However, they were not in a position to controvert the findings recorded in the report submitted by the then Principal Secretary of the Department. Even in the rejoinder filed,



only the point of appointment of another person by the same dispatch register has been taken.

5. Learned counsel for the State submitted that once a clear-cut finding has come that the level at which the appointment has to be made was not done, that is, the competency of the officer making such appointment and further that the file number quoted in the appointment letter does not deal with the appointment of the petitioners, the documents being forged and fabricated stands established, moreso, when there is no specific rebuttal of the same.

6. Having considered the rival contentions, the Court does not find any merit in the writ petitions. As there is a clear-cut finding that the appointments had to be made at the level of the Directorate and also that the file number which is quoted in the appointment letters itself has no concern with the appointment of the petitioners, which has also not been rebutted by the petitioners and only a statement has been made that another person has also been appointed by the same dispatch register, would not make the case of the petitioners fit to be allowed or held to be genuine. The genuineness of each and every case, as and when brought before the Court, has to be tested with reference to the relevant official documents and in the present case, two grounds which are purely legal and valid, i.e., the competency of the level at which the



appointment letter has been issued and also with regard to the file number quoted in the appointment letters itself not dealing with the appointment of the petitioners, clearly, the appointment letters fall in the category of forged and fabricated. Once fraud is established, all consequences flowing through the same stands vitiated. In this context, the Court is tempted to refer to the judgment of the Hon’ble Supreme Court in the case of **R. Vishwanatha Pillai v. State of Kerala** reported as **2004(2) PLJR (SC)**, in which it has been held at paragraph no. 19 that the rights to salary, pension and other service benefits are entirely statutory in nature in public service and that the right to salary or pension after retirement flow from a valid and legal appointment, and in absence of the same, there cannot be any order with regard to the same.

7. In view thereof, the writ petitions stand dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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