

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5459 of 2018

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Ravi Prakash, son of Late Dharmendra Kumar Verma, Resident of 'Saroj Kunj', Transport Nagar, P.S.- Agamkuan, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Health Department, Patna.
2. The Addl. Secretary, Health Department, Govt. of Bihar, Patna.
3. The Director in Chief (Health Dept.) (Pharmacy), Health Department, Govt. of Bihar, Patna.
4. The Drug Controller of Bihar Health Department, Govt. of Bihar, Patna.
5. The Chairman Bihar State Pharmacy Council, B.M. Das Road, P.S.- Pirbahore, District- Patna- 800004.
6. The Registrar, namely Sri Bindeshwar Nayak, Bihar State Pharmacy Council, B.M. Das Road, P.S.- Pirbahore, District- Patna- 800004.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Mishra, Advocate
For the Respondent/s	:	Mr. S.D. Yadav- AAG-9
For the B.S.P.C.	:	Mr. Y.V. Giri, Sr. Advocate
		Mr. Udaychand Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 26-10-2018

Heard learned counsel for the petitioner and
learned counsel for the Bihar State Pharmacy Council.

2. In this case, the petitioner has made a prayer for quashing the order dated 25.01.2018, passed by the respondent no.6, by which the petitioner has been dismissed from the post of Clerk.



3. The short facts of this case are that an advertisement was issued by the respondents for appointment on the post of clerk and in pursuance thereof, the petitioner had applied for the said post, accordingly, he was appointed in the year 2004. After lapse of about 14 years, the Registrar has doubted the appointment of the petitioner and asked him to produce the appointment letter as there was no records in the department concerning the appointment of the petitioner. Whereupon, from time to time he was asked to produce the same and ultimately, the petitioner has been dismissed from the service by the impugned order dated 25.01.2018 on the ground of illegal entry in the department. The appointment has been made vide letter dated 09.09.2004 issued by the Registrar, Bihar State Pharmacy Council, which is attached in Annexure-1 to this writ petition.

4. In the counter affidavit, the Bihar State Pharmacy Council has taken stand that the appointment letter has been obtained by process of “Scanned by Cam Scanner” and this Court vide order dated 12.10.2018 directed the petitioner to produce the original appointment letter, which the petitioner has produced before this Court, which *prima facie* appears to be genuine one. However, learned counsel for the respondents



submits that it is a newly created document by illegal means and it cannot be said to be a genuine appointment letter issued in the year 2004, but admittedly, no inquiry was conducted by the department before dismissing the petitioner from the service.

5. Learned counsel for the petitioner submits that when the petitioner has worked for about 14 years i.e. from 2004-2018 in such circumstance, he cannot be deprived of his service without conducting any proceeding and merely on *Ipse dixit* ground the petitioner has been dismissed from the service, is completely illegal.

6. Learned counsel for the respondents submits that when a fraud has been played there is no requirement to follow the natural justice, but in the present case, the petitioner has produced the document and this Court cannot give the certificate of genuineness of the document, but it is always subject to finding recorded in the inquiry.

7. In such view of the matter, the impugned order dated 25.01.2018 is set aside and the matter is remanded back to the respondents, if so required, they may conduct an inquiry with specific imputation against the petitioner and take decision in accordance with law. It goes without saying that the respondents will make payment of salary to the petitioner for the



period he has admittedly discharged the duty.

8. 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	30.10.2018
Transmission Date	N/A.

