IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8718 of 2018

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Onkar Kumar S/o Late Sugambar Singh resident of Village - Rasalpur, P.O. - Arai, Via - Karai Parsarai, District - Nalanda. .... Petitioner/s

Versus

1. The Union of India through the Comptroller and Auditor General, New Delhi.
2. The Comptroller and Auditor General of India, 9 Den Dayal Upadhyay Marg, New Delhi - 110124.
3. The Principal Accountant General (Audit), Bihar, Birchand Patel Marg, Patna - 800001.
4. The Accountant General (A & E), Bihar, Birchand Patel Marg, Patna - 800001.
5. The Senior Deputy Accountant General (Administration), Bihar, Patna.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Hemant Kumar Karan, Adv.
For the A.G. : Mr. Arun Kumar Arun, Adv.
For res. No. 4 : Mr. Atul Anand, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 15-05-2018

Having heard counsel for the petitioner and counsel representing the Accountant General we are of the opinion that for identical set of facts there cannot be two different orders or views which should prevail as this will lead to disquiet in society and sends a wrong message.

The issue is whether the period of work done by a person as an under-age employee is required to be given benefit for the period of work experience or not in matter of giving the status of a M.T.S.

Similar issue had arisen earlier and one Sanjeet Kumar in similarly situated situation had approached the Central Administrative Tribunal, Patna Bench, Patna in O.A. 109 of 2014 which came to be decided in his favour vide order dated 10.05.2016, a copy of which is Annexure-P/5.

The view taken by the CAT Bench in paragraphs-5 and 6 of the said decision was upheld by the Division Bench of this High Court in C.W.J.C. No. 14405 of 2016. The Court is informed that both the decisions were implemented and Sanjeet Kumar was granted benefit of work experience, even for the period he was less than 18 years of age.

A dichotomous situation has arisen because when present petitioner approached the Tribunal, the respondent authorities deducted the points awarded to him for the period of work when he was under-age. The Tribunal took another view in O.A. 678 of 2015 in their order dated 08.12.2017. Obviously, proper assistance was not given to the Tribunal with regard to the previous order and view taken in another identical litigation.

A review application which was R.A. No. 06 of 2018 was filed but taking a technical view of the matter looking at the limitation of the power of review, R.A. No. 06 of 2018 was also dismissed on 21.02.2018. Both these orders, therefore, are subject matter of challenge before this Court.

The Court had already taken note of the situation which emerges in the opening paragraph of the order which is being passed today. Since, it is ordained that there has to be consistency of decisions in matter of adjudications and grant of reliefs to similarly situated persons, therefore, keeping in mind the previous position in law which has been laid down by the Tribunal in O.A. 109 of 2014 decided on 10.05.2016 and the Division Bench order passed by the High Court in C.W.J.C. No. 14405 of 2016 decided on 20.03.2017, both the orders passed in O.A. 678 of 2015 and R.A. No. 06 of 2018 dated 08.12.2017 and 21.02.2018 respectively are required to be quashed.

The writ application is allowed. Matter is remanded back to the Tribunal to decide the matter afresh keeping in mind the two orders which have been referred to i.e. O.A. 109 of 2014 as well as the order passed in C.W.J.C. No. 14405 of 2016. The Tribunal must adjudicate the matter on priority looking at the fact that it is a question of the right of consideration of the present petitioner at par with similarly situated persons.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/Devendra

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2018
Transmission Date	NA