

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10611 of 2016

1. Suresh Rout, Son of Late Jatta Rout Resident of Village Sathi, P.O. and P.S. Bettiah District - West Champaran, at present resident of Raj Compound, Bettiah, P.O. and P.S. Bettiah, District - West Champaran.
2. Birendra Mahto Son of Late Kanchan Mahto resident of Village Kheratiya, P.O. Bettiah, P.S. Maupal Bettiah, District West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Member Board of Revenue cum Court of Ward, Bettiah Estate, Old Secretariat, Patna.
3. The Secretary, Board of Revenue, Bihar, Old Secretariat, Patna.
4. The Manager, Bettiah Estate, Bettiah, P.S. Bettiah Town, District West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh, Adv. Mr. Ram Binod Singh, Adv.
For the Bettiah Raj	:	Mr. Shailendra Kumar Singh, Adv.
For the Resp. 2 to 4	:	Mr. S. Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 10-07-2019

Heard learned counsel for the parties.

In this case, the petitioners are challenging the order contained in letter no. 142 dated 9.6.2016 passed by the Manager, Bettiah Raj, whereby and whereunder, the services of the petitioner has been dispensed with.

The petitioners have some past history of litigation as they already came to this Court in C.W.J.C. No. 3689 of 2005 and the Court had remanded the matter back for fresh consideration without disclosing the mind of the court with regard to the merit of



the case, whereupon, the Member Board of Revenue vide order dated 15.4.2007 took a view of regularization on compassionate ground but, various facts taken into consideration, not necessary to be narrated in the present application and, later on, the Manager, Bettiah Raj has given his own interpretation vide Memo No. 53 dated 23.4.2007 and promoted the petitioner to the Class-3 post. Though the petitioners were appointed on a Class-4 post but, the promotion has been granted by the Manager, Bettiah Raj and, that too, without approval of the Board of Revenue. It further appears from the order passed in the case of Suresh Raut, the present petitioners and others, the Manager, Bettiah Raj vide order dated 9.6.2016 has found that they cannot be allowed to function either on Class-3 or the Class-4 post and canceled the engagement of these petitioners.

A short point has been raised by the petitioners that admittedly, wrongly or rightly, they were appointed on Class-4 post, later on, promoted to the Class-3 post in the year 2007 and the Manager has taken a decision after long delay of nine years vide impugned order dated 9.6.2016, natural justice demands, before the petitioners could be visited with the adverse order for dispensing with the service of the petitioners, at least, a show-



cause should have been served but, even that has not been followed in the present case.

The State has tried to justify the action of the Manager, Bettiah Raj having stated that Manager misconstrued the letter of the Member Board of Revenue dated 5.4.2007 (Annexure-6) and granted promotion to the post without approval of the Board of Revenue but, the State has failed to show that any letter or show-cause was served upon the petitioners.

Having considered the rival contentions of the parties, this Court is not giving any opinion on the merit of the present case as already some historical facts have been attached to this case about engagement and promotion, twice they have come to this Court and this Court has passed the order remanding back for consideration by the authority concerned but, this time also, the Manager, without issuing notice and asking show-cause, straightway canceled the appointment of the petitioners which cannot be allowed to sustain.

Accordingly, the letter no. 142 dated 9.6.2016 is quashed and the matter is remanded back to take into account all factors and, after giving notice of hearing to the petitioners, will take a decision in accordance with law.



Any payment will be made subject to result of the proceeding to be conducted by the competent authority.

In the result, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.07.2019
Transmission Date	

