

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4659 of 2016

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Pinku Kumar Yadav Son of Late Tarni Yadav, Resident of West Azimganj,
P.O.- Haveli Kharagpur, P.S.- Kharagpur, District- Munger.

... .. Petitioner

Versus

1. The State Bank Of India through its Chief General Manager, Patna
2. The Deputy General Manager-cum-Appellate Authority, State Bank of India, Administrative Office, Purnea
3. The Regional Manager, State Bank of India, Purnea Zonal Office, Purnea.
4. The Assistant General Manager, State Bank Learning Centre, State Bank of India, Circular Road, Deoghar

... .. Respondent
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Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Advocate Mr. Brisketu Sharan Pandey
For the Respondent/s	:	Mr. Chittaranjan Sinha, Sr. Advocate Mr. Binod Bihari Singh Ms. Surya Nilambari

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 07-11-2019 It is submitted that description of respondent No. 2 has wrongly been written as Administrative Office Patna instead of Purnea. The petitioner's counsel is permitted to make correction to this effect in the cause title.

Heard learned Senior Counsel appearing for the petitioner as well as learned Senior Counsel appearing for the respondent Bank.

The factual issues in the instant proceedings are not in dispute. The petitioner while availing employment in the respondent Bank has not disclosed pendency of a criminal case



against him since 2006. Since such disclosure was required in forms to be submitted for employment the suppression of Haveli Kharagpur PS Case No. 70 of 2006 has been made the basis of petitioner's dismissal from service. It is this suppression of criminal case, which has also weighed before the authorities in not confirming his services. Non-confirmation of his services have also been made the basis of his dismissal from service.

The substratum for the action remains the same ie. pendency of the criminal case and non disclosure thereof while availing appointment in the bank. The authorities have punished the petitioner on account of the aforesaid facts. The issue has travelled up to the appellate authority i.e. respondent No. 2. The Appellate Authority namely the Deputy General Manager of the Bank at the Administrative Office at Purnea has rejected the appeal of the petitioner on 26.3.2015, which also is impugned in the instant proceeding.

Mr. Singh appearing for the petitioner has submitted that the Apex Court has in the case of *Avtar Singh vs. Union of India* reported in *(2016) 8 SCC 471* has decided a similar issue regarding suppression of pendency of a criminal proceeding at the time of availing employment. The Apex Court has specified



yardsticks which are to be applied depending upon the nature of the post and other factors. Having considered the entire issue the conclusions have been summarised in para 38 of the said judgment. It is in that background that the authorities are required to determine the effect of suppression .

The law in this regard has been laid down by the Apex Court in the said judgment. Since the instant case also involves suppression of a criminal proceeding while availing appointment, interest of justice would be served by directing the authorities to consider the issue of suppression and effect thereof in light of the decision of the Apex Court in the case of Avtar Singh (supra).

In order to facilitate such consideration this Court would quash Annexure 2 i.e. order of the Appellate Authority dated 26.3.2015.

The matter is being remanded to the Appellate Authority to reconsider the issue in light of the law laid down by the Apex Court, considered hereinabove, expeditiously without undue delay and preferably within a period of four months from the date of receipt/production of a copy of this order.

The writ petition stands disposed of.

(Madhuresh Prasad, J)

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