

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9411 of 2019

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Rasik Lal Sharma, Son of Late Bechu Sharma, resident of Village and P.O.-
Balbhadrapur, Via- Balua Bazar, Police Station- Birpur, District- Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary Building, Construction Department, Government of Bihar, Patna.
2. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Building Construction Department, Government of Bihar, Patna.
4. The Additional Secretary, Building Construction Department, Government of Bihar, Patna.
5. The Chief Engineer (North) Building Construction Department, Government of Bihar, Patna.
6. The Superintending Engineer, Building Construction Department, Works Circle, Saharsa.
7. The Superintending Engineer, Building Construction Department, Building Circle, Purnea.
8. The Executive Engineer, Building Construction Department, Building Division, Supaul.
9. The Executive Engineer, Building Construction and House Department, Purnea.
10. The Executive Engineer, Building Construction and House Department, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Siyaram Pandey
For the Respondent/s : Mr. Uday Prasad, AC to GP 22

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 18-07-2019 Heard learned Counsel for the petitioner and the

learned Counsel for the respondent State.,

Petitioner claims to be an employee who has crossed
the age of superannuation. He has worked under the work
charge establishment at the Central Building Division, Patna,



Building Division, Purnea as also Building Division Saharsa. He was claiming regularisation in light of policy decision of the state government. Claiming discrimination in the matter of regularisation he filed CWJC No. 766 of 2008, which stood dismissed for default.

The counter affidavit reveals that during pendency of the writ application, the petitioner had produced appointment letter dated 21.1.1981 bearing no. 81 claiming the same to be his appointment letter. The letter referred to by the petitioner as his appointment letter was found to be incorrect as the records in the office did not show issuance of any such letter in the dispatch register. In the circumstances Executive Engineer, Building Division Supaul issued a show cause notice to the petitioner on 23.7.2012 and his salary was also stopped. The specific uncontroverted stand of the respondents in the counter affidavit is that the petitioner did not reply to the said show cause and made no submissions on legality of his appointment letter. Now again the writ petition has been filed seeking relief of regularisation.

The respondents have taken objection that since the earlier writ for the same relief stood dismissed for default the instant proceedings are not maintainable.



Such objection is over ruled. The decision in the earlier proceeding was not on merit. The issue was not decided and therefore there is no difficulty in maintainability of the instant writ petition.

Petitioner chose not to avail liberty granted in the earlier writ proceedings to submit his reply in respect of his claim of appointment letter dated 21.1.1981. Till such time validity of petitioner's appointment letter is not determined in accordance with law pursuant to decision on petitioner's earlier writ petition, the petitioner cannot be heard to maintain a claim for regularisation on basis of the same appointment letter. Moreso since he has chosen not to avail the earlier opportunity.

The prayer made in the writ petition on account of such conduct of the petitioner is not found worthy of consideration.

The writ petition is dismissed.

(Madhuresh Prasad, J)

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