

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18058 of 2011

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RAM KUMAR LAL Son Of Late Brij Bhushan Lal Resident Of Village-
Biraul, Western Tola, P.O. - Biraul, P.S.- Pandaul. District- Madhubani Bihar

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS
2. The Director In Chief, Health Services, Bihar, Patna Bihar
3. The Civil Surgeon Ccum Chief Medical Officer, Gopalganj, District-
Gopalganj Bihar
4. The Medical Officer, In-Charge , Referral Hospital, Bhore, P.O. and P.S.-
Bhore, District- Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate
		Mr. Raju Giri, Advocate
For the Respondent/s	:	Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

10 19-02-2020 Heard learned counsel for the parties.

2. The petitioner has put to challenge an order dated 9.8.2010 passed by One Man Enquiry Committee of Mr. Justice Uday Sinha (Retired) whereby the petitioner's challenge to an order of termination dated 01.07.2004 was turned down. The said One Man Enquiry Committee was constituted under an order of this Court. The petitioner is also seeking a direction to the respondents to reinstate him in service with effect from 01.07.2004.

3. The petitioner asserts that he was appointed as a daily wage employee, which fact has not been accepted by the



One Man Enquiry Committee. According to the petitioner's own documents, it has been recorded that as a matter of fact, the petitioner had been appointed as a voluntary worker on a salary of Rs.50/- per month.

4. It is further case of the petitioner that subsequently, by an order dated 03.06.1989 issued by the Civil Surgeon cum Chief Medical Officer, Gopalganj, he was posted against a Class-IV post in the pay scale of Rs.350-3-380-5-400 and further that his service was subsequently confirmed by an order issued on 04.08.1992 by the Civil Surgeon cum Chief Medical Officer, Gopalganj. The petitioner's service was subsequently terminated by an order dated 01.07.2004 mainly on the ground that his appointment was without any advertisement and without following any process of selection.

5. Mr. Y.V. Giri, learned senior counsel appearing on behalf of the petitioner assailing the impugned order has submitted that the impugned order has been passed without following the procedure of law.

6. Mr. Arvind Ujjwal, learned SC-4 appearing on behalf of the State of Bihar has referred to a Supreme Court's decision dated 17.10.2019 rendered in Civil Appeal No. 7879 of 2019 (*The State of Bihar & Ors. Vs. Devendra Sharma &*



Ors.) to contend that the controversy as is being raised in the present case has been finally settled.

7. I find force in submission made on behalf of Mr. Arvind Ujjawal, learned SC-4. The Supreme Court has laid down following ratio in paragraph-44 of the Judgment in case of ***State of Bihar Vs. Devendra Sharma*** (supra) which reads thus:-

*“44. In view of the aforesaid judgments, it cannot be said that the appointment of the employees in the present set of appeals were irregular appointments. Such appointments are illegal appointment in terms of the ratio of Supreme Court judgment in **Uma Devi**. As such appointments were made without any sanctioned post, without any advertisement giving opportunity to all eligible candidates to apply and seek public employment and without any method of recruitment. Such appointments were backdoor entries, an act of nepotism and favoritism and thus from any judicial standards cannot be said to be irregular appointments but are illegal appointments in wholly arbitrary process”.*

8. This is an undisputed fact that the petitioner was appointed without any advertisement and without giving opportunity to all eligible candidates to apply and seek employment and without adopting any other method of recruitment. The Supreme Court has clearly observed that such appointments are backdoor entries, acts of nepotism and



favoritism and from any judicial standards, the same cannot be termed as irregular appointments but are illegal appointments in wholly arbitrary process.

9. In view of the decision of Supreme Court in case of State of Bihar Vs. Devendra Sharma (supra), no interference is required.

10. This writ application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

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