

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.799 of 2014

In

Civil Writ Jurisdiction Case No.3483 of 2013

Subhash Kumar Singh S/O Shri Ayodhya Prasad Singh Resident Of Mohalla
Rukkanpura, Police Station Rupaspur, District Patna.

... .. Petitioner/s

Versus

1. C. Vishwanath, IAS, Chairman-cum-managing Director, Fci, and Ors. S/O Not Known To The Petitioner Chairman-Cum-Managing Director, Fci, 16-20 Barkhambha Lane, Head Quarters, New Delhi-110001.
2. D.K. Bhalla, IAS S/O Not Known To The Petitioner Executive Director Personnel, 16-20, Barkhambha Lane, Head Quarters, New Delhi-110001.
3. R.K. Chaturvedi S/O Not Known To The Petitioner General Manager, P.E. / PandI.R., Fci, 16-20, Barkhambha Lane, Head Quarters, New Delhi-110001.
4. Satyanand, Ifs S/O Not Known To The Petitioner General Manager Region, Fci, Regional Office, Patna.
5. Rajesh Chaudhary S/O Not Known To The Petitioner Deputy Manager Personnel 16-20, Barkhambha Lane, Head Quarters, New Delhi-110001.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Anand
For the FCI : Mr. P. K. Shahi, Sr. advocate
Mr. Prabhakar Tekriwal

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

8 13-02-2020 Heard both sides.

The petitioner has filed this petition for initiation of contempt proceeding against the opposite parties for disobeying and disregarding the order of this court dated 02.12.2013 passed in CWJC No. 3483 of 2013.

The learned counsel for the petitioner submits that by the aforesaid order this court directed the opposite parties to take decision with regard to issuance of appointment letter in favour of the petitioner in above facts and circumstances of the



case within one month from the date of receipt/ production of a copy of the order by the petitioner. It is submitted that the learned counsel appearing for the FCI had submitted that the petitioner ranked higher than the last person who has appointed and he has now been exonerated from the charges and sufficient posts are vacant to accommodate the petitioner. It was also submitted that some cases are pending before the Delhi High Court and, therefore, the authority required some time for consideration of the case of the petitioner. It is submitted that no scope or space was left to reconsider the case of the petitioner on merit. It is also submitted that the person who ranked junior to the petitioner in the merit list has been appointed. Vigilance clearance was also made. The petitioner was exonerated from the charges leveled against him but even then the authority rejected the claim of the petitioner (Annexure- A) on the ground that vigilance clearance of the petitioner was not available prior to issuance of the appointment letter and the case of the petitioner was examined but he was not found suitable for appointment on the post of Assistant General Manager (Technical) but the authority did not disclose any fact. It is submitted that consideration means the facts relevant and material for consideration with regard to appointment. The



petitioner in reply to the show cause annexed list of successful candidates who were appointed on the post of Assistant General Manager and from perusal of page 57 and 58 of the reply to the show cause it would appear that Bochade Malahari Mangan was appointed without obtaining vigilance clearance report from his employer. Other candidates were also appointed but the case of the petitioner has been singled out. This fact itself shows that opposite parties malafidely and in utter disregard of the order of this court passed the order dated 06.02.2017 (Annexure- A) and rejected the representation of the petitioner for issuance of appointment letter on the post of Assistant General Manager (Technical) in FCI.

Mr. P. K. Shahi, the learned senior counsel for the F.C.I., has submitted that this court by order dated 02.12.2013 passed in CWJC No. 3483 of 2013, after hearing the parties and considering the submissions, directed the opposite parties to take decision with regard to issuance of appointment letter in favour of the petitioner on the facts and in the circumstances of the case within one month. Of course, order on the representation of the petitioner could not be passed within one month on account of pendency of cases in different High Courts but after disposal of all the cases the opposite parties by order



dated 06.02.2017 considered the representation of the petitioner and found that the petitioner, an employee of the FCI, was earlier departmentally proceeded on different charges and after perusal of vigilance clearance and character records of the petitioner the competent authority did not accept the report and found the petitioner not fit for the appointment on the post of Assistant General Manager (Technical). It is submitted that this court, while dealing with the contempt proceeding, cannot look into the merit of the case of the petitioner. If the petitioner is at all aggrieved and if he has got fresh cause of action he may file fresh writ petition against the order dated 06.02.2017 but no case for willful disregard or disobedience of the order of this court is made out.

Having considered the facts and submission of both sides, I find that this court vide order dated 02.12.2013 after considering the submission of both sides disposed of the writ petition with following direction:-

“In above view of the matter, this application is disposed of with a direction to the respondent authority to take a decision with regard to issuance of appointment letter in favour of the petitioner in above facts and circumstances of the case within one month from the date of receipt/ production of a copy of this order by the petitioner.”

In pursuance of the aforesaid order, the authority considered the case of the petitioner and by a detailed order dated 06.02.2017 (Annexure- A) found the petitioner not fit on



different counts for appointment on the post of Assistant General Manager (Technical) and, accordingly, informed the petitioner. Of course, the order was passed in the year 2017 but it has been disclosed that since litigation with regard to the same appointment was going on in different High Courts. including Delhi High Court, and when the matter was finally disposed of the Deputy General Manager (Estt) took decision in the light of order dated 02.12.2013 passed by this court in CWJC No. 3483 of 2013 and informed the petitioner. Therefore, I find that the opposite parties have already taken decision and did not find the petitioner suitable on the post of Assistant General Manager (Technical) on the ground of his past service records. In contempt proceeding it is out of purview of this court to enter into merit and consider whether the order of rejection is based on reasonable ground or otherwise.

Thus, I find that no further action is required against the opposite parties. Accordingly, this contempt petition is dismissed with liberty to the petitioner that, if the petitioner is at all aggrieved, he may file a fresh writ petition for redressal of his grievance.

BKS/-

(Prabhat Kumar Jha, J)

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