

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10644 of 2012

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Rajeev Kumar S/O Late Ganpati Ram Resident Of Drainage Colony, P.O. Udakishanganj, P.S. Udakishanganj, District Madhepura.

... .. Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Madhepura.
3. The District Accounts Officer, Madhepura.
4. The Deputy Collector, District Establishment, Madhepura.
5. The Bihar Public Service Commission Through Its Chairman, Bailey Road, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Sanjay Kumar, Advocate Mr. Anant Kumar-1, Advocate
For the Respondent State:		Mr. Prabhat Ranjan, AC to GP-6

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 07-01-2020

The petitioner has put to challenge an order dated 23.10.2003 issued by the District Magistrate, Madhepura, whereby his appointment as Lower Division Clerk made on the recommendation of Bihar Public Service Commission has been cancelled.

2. It is evident from the impugned order that the Appointing Authority cancelled the petitioner's appointment after having received adverse reports from the Bihar Public Service Commission. The petitioner's appointment was apparently on temporary basis and in the letter of appointment dated 08.07.2003



itself, it was mentioned that appointment of a candidate would be cancelled in case any adverse report was received from the Bihar Public Service Commission.

3. The present writ application has been filed on 21.06.2012. It transpires that after passing of the impugned order, a First Information Report was lodged against the petitioner with the allegation that the petitioner had managed to change the photograph, which was pasted in his original application. The petitioner was put on trial and finally came to be acquitted by the judgment and order dated 27.09.2011 passed by the learned Sub Divisional Judicial Magistrate, Madhepura, in Trial No. 981 of 2011, arising out of Madhepura P.S. Case No. 52 of 2004. Nearly nine months after his acquittal in the criminal case, present writ application has been filed seeking quashing of the order, which was passed in 2003.

4. Learned counsel appearing on behalf of the petitioner has submitted that he was not informed even about the nature of adverse report of the Commission, which the Appointing Authority had received, leading to cancellation of his appointment. He has submitted that after cancellation of his appointment, the petitioner had attempted to get information from the Bihar Public Service Commission about the adverse report, which became the basis for



cancellation of his appointment. It is accordingly being argued that the impugned action of the Appointing Authority in cancelling the petitioner's appointment is arbitrary and in violation of principles of natural justice.

5. It is being argued on behalf of the State that the petitioner does not deserve any relief in the background of inordinate delay of nine years in filing the present writ application. Referring to the counter affidavit filed on behalf of the State of Bihar, it has been argued that certificate and documents of all the candidates, whose names were recommended by the Commission, were verified and scrutinized in the District Magistrate's office, whereafter the District Magistrate had communicated the same to the Commission. In response to the letter of the District Magistrate, the Bihar Public Service Commission communicated in respect of the petitioner that the application form along with photograph had been changed.

6. In my opinion, this writ application deserves to be dismissed solely on the ground of delay and laches. If, according to the petitioner, the impugned order was bad and was passed without valid reason and without giving the petitioner any opportunity of hearing, it was open for him to have approached this Court immediately thereafter. The submission on behalf of the



petitioner that he decided to approach this Court, only after he was acquitted in a criminal case, is not convincing for the purpose of entertaining the present writ application for the reason that the petitioner, if he was so convinced about the impugned decision of the Appointing Authority in cancelling his appointment, could have challenged the same on the grounds, which were available to him. Additionally, the trial Court has recorded acquittal on the basis of lack of evidence demonstrating the petitioner's role in manipulation of documents. There is no finding recorded by the Court below that the photograph in the original application was not changed.

7. Considering the facts and circumstances, as noted above, I do not find any merit in this writ application. It is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.01.2020
Transmission Date	N/A

