

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5753 of 2020

Vikash Kumar Singh Son of Late Shyam Bihari Singh, resident of Singh Colony, Pakri Chowk, Ara, Police Station- Ara Nawada in the district of Bhojpur

... .. Petitioner/s

Versus

1. The Bihar State Co-operative Bank Ltd. Ashok Rajpath, Patna, through its Managing Director
2. The Managing Director, Bihar State Co-operative Bank Ltd. Ashok Rajpath, Patna
3. The Chairman, Bihar State Co-operative Bank Ltd. Ashok Rajpath, Patna
4. The Deputy General Manager (Admn.) Bihar State Co-operative Bank Ltd. Ashok Rajpath, Patna
5. The Deputy General Manager (Account) Bihar State Co-operative Bank Ltd. Ashok Rajpath, Patna
6. The Chief Vigilance Officer, Bihar State Co-operative Bank Ltd. Ashok Rajpath, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sunil Singh, Advocate
For the Respondent/s : Ms. Nishi Nath Ojha, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 09-12-2021

Heard learned counsels for the parties.

In the instant petition, petitioner has prayed for the following reliefs:

“(i) To quash the office order contained in Memo No. 4948 dated 30.12.2019 issued under the signature of respondent no. 2 by which the petitioner has been dismissed from service i.e. from the post of Office Assistant of the Bihar State Co-operative Bank Ltd.

(ii) Also to direct the respondents authorities to reinstate the service of the petitioner with all consequential services benefits.



(iii) Also for any other relief/reliefs for which the petitioner is found in the eye of law.”

Learned counsel for the respondent submitted that petitioner has the statutory remedy of appeal before the Appellate Authority and without exhausting the statutory remedy of appeal, petitioner has rushed to this Court. Hon’ble Apex Court in the case of ***State of Jammu and Kashmir Vs. R.K. Zalpuri and others*** reported in ***AIR 2016 SC 3006 paragraph-20***. Para 20 is held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V/s. Dosu Aardeshir Bhiwandiwalla and others {(2009) 1 SCC 168}, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

“The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) Adjudication of writ petition involves any complex and disputed question of facts and whether they can be satisfactorily resolved;

(b) The Petition reveals all material facts;

(c) The petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) Person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) Ex facie barred by any laws of limitation;

(f) Grant of relief is against public policy or barred by any valid law; and host of other factors”

(emphasis supplied)

One of the principle laid down in the aforesaid decision of the Apex Court is before entertaining petition under Article 226, it is necessary to verify whether petitioner has exhausted remedy of appeal or not?



In the result, the petitioner has not made out the case and the writ petition stands dismissed reserving liberty to the petitioner to approach the Appellate Authority in filing memorandum of appeal within a period of eight weeks from today.

On receipt of memorandum of appeal, Appellate Authority is hereby directed to decide the petitioner’s memorandum of appeal within a period of six months from the date of receipt of appeal.

(P. B. Bajanthri, J)

Gaurav Kumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

