

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6182 of 2020

=====

Anjana Kumari, aged about 46 years, female, Wife of Sri Mukesh Kumar
Resident of Village and P.O.-Sahsi, P.S.-Alauli, District-Khagaria.

... .. Petitioner

Versus

1. The Union of India through the Chief Post Master General, Bihar Circle, Patna.
2. The Post Master General, Northern Region, Muzaffarpur.
3. The Director of Postal Services (NR), O/o the Postmaster General, Northern Region, Muzaffarpur.
4. The Superintendent of Post Officer, Begusarai, Division-Begusarai.

... .. Respondent/s

=====

Appearance :

For the Petitioner : Mr. Subodh Kumar Jha, Advocate
For the Respondents : Ms. Kanak Verma, CGC

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE VIKASH JAIN)

Date : 06-07-2021

Heard learned counsel for the petitioner and learned
counsel for the respondents through video conference.

2. The present writ petition has been filed “for
quashing of the order dated 30/8/2019 passed in OA No.
050/00300/2016 by the Hon’ble Central Administrative
Tribunal, Patna Branch, Patna by which Hon’ble Tribunal has
disposed of the application filed by the petitioner with
observation directing the petitioner to apply, if she so desires, for
any similar post with the respondent department as suggested



by the Hon'ble High Court in CWJC No. 10594/2010 and further in the nature of mandamus for directing and commanding the respondents to appoint the petitioner on the same post i.e. GDSBPM, Sahsi Branch Office where the petitioner had worked more than 18 years and after termination of the petitioner on the said post the said post is vacant for seven years waiting for appointment of one Ram Udgar Yadav who is an accused in criminal case due to which his joining has not been accepted and he is not being appointed in near future, hence the case of the petitioner may be sympathetically considered by this Hon'ble Court and further for any other appropriate relief or relieves for which the petitioner is entitled in the facts and circumstances of the instant case".

3. The short facts of the case according to the petitioner are that the post of GDSBPM at Sahsi Branch Post Office in account with Sakarpura Sub-Post Office, P.S. Alauli, District Khagaria under Begusarai Postal Division fell vacant and was notified for appointment in the year 1995, against which the petitioner came to be appointed. Her appointment was repeatedly challenged by one Ram Udgar Yadav before the Tribunal by filing O.A. No. 710 of 1995, O.A. No. 396 of 1996 and finally O.A. No. 1028 of 2003. The last O.A. was successful



and by order dated 28.05.2010, the Tribunal recorded a finding that the applicant Ram Udgar Yadav had secured the highest marks in matriculation examination and hence the appointment of the present petitioner in preference over his case was illegal. It was therefore directed to appoint the said applicant Ram Udgar Yadav after cancelling the petitioner's appointment. This order is impugned in the present writ petition.

4. Mr. Subodh Kumar Jha, learned counsel for the petitioner, appears and submits that even after passing of the aforesaid order by the Tribunal, the respondents have not yet appointed Ram Udgar Yadav in view of pendency of two criminal cases against him, namely, Alauli P.S. Case No. 24 of 2001 and Alauli P.S. Case No. 245 of 2014. It is submitted that the post has deliberately been kept vacant since passing of the order by the Tribunal on 28.05.2010 awaiting finality in the pending criminal cases against Ram Udgar Yadav. As such, the respondents have acted arbitrarily in not appointing the petitioner against the said post. It is submitted that admittedly the petitioner had secured the second highest marks in Matriculation examination and had produced the documents



relating to her landed property, and hence she was the next eligible person to be appointed after Ram Udgar Yadav.

5. It is further stated that representations dated 25.11.2013 and 14.03.2016 (Annexures 5 & 6) have been filed by the petitioner before the concerned authorities for her appointment but, no action has been taken in this regard.

6. Learned counsel for the respondent Union of India appears and has been heard. Reference is invited to the earlier order of this Court dated 09.07.2010 passed in CWJC No. 10594 of 2010 (Annexure-2) preferred by the petitioner, which was dismissed with the following observations -

“9. Before parting with the order, we must record a submission made by the learned counsel for the petitioner that this lady was not at fault and she continued to hold the post in question for nearly 15 years and at this juncture she will face acute difficulty and distress in finding another job of the same nature, moreso, when she has crossed the age of eligibility.

10. While sympathizing with the petitioner on the aforesaid count, this Court has very limited options. After hearing learned counsel for the Union of India on this issue, it is directed in the interest of justice that if in future the petitioner applies for appointment against such or similar post in this department or any other department of Union of India, she shall be granted age relaxation for the purpose of recruitment at least for 14



years which she has definitely spent in service on account of wrong rejection of claim of the applicant.

11. This order will not stand in the way of Union of India and its Officials if they want to adjust the petitioner against any other post in order to mitigate her difficulties in such an extraordinary situation."

7. Having heard the parties and on consideration of materials on record, this Court does not find it necessary to call for a counter affidavit. As pointed out on behalf of the respondents, this Court in CWJC No. 10594 of 2010 did not entertain the claim of the petitioner and directed grant of age relaxation to the petitioner, having regard to the period spent by her in service. The Tribunal in the impugned order has also similarly observed that the petitioner would be at liberty to apply for any similar post with the respondent department. If the contention of the petitioner were to be accepted, it would amount to this Court directing the respondents to appoint the petitioner on the post. Whether or not a post should be filled up remains within the domain of the authorities. It is not the case of the petitioner that she has wrongly been denied appointment by appointing some other person in her place without granting age relaxation to her in terms of the direction of this Court.



8. The writ petition is devoid of merit and is accordingly dismissed.

(Vikash Jain, J)

(Anjani Kumar Sharan, J)

rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.07.2021
Transmission Date	

