

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1416 of 2021

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Prakash Kumar, aged about 44 years, Gender- Male, S/o Shiv Narayan Yadav R/o Village Piprahi, Police Station- Singheshwar, District-Madhepura.

... .. Petitioner

Versus

1. The Union of India through the D.G. cum Secretary, Department of Posts Dak Bhawan, New Delhi.
2. The Under Secretary of the Govt. of India, Department of Secondary and Higher Education, Govt. of India, Shastri Bhawan, New Delhi- 110001.
3. The Chief Post Master General, Bihar Circle, Patna.
4. The Post Master General, Northern Region, Muzaffarpur.
5. The Superintendent of Post Offices, Saharsa Division, Saharsa.
6. The Assistant Superintendent of Post Office, Madhepura.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Jitendra Kumar Giri, Advocate
For the Respondents: Mrs. Punam Kumari Singh, CGC.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE VIKASH JAIN)

Date : 06-08-2021

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

2. Learned counsel for the petitioner has filed an undertaking that all defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of

this Court with regard to acceptance of e-filing shall be made, without delay immediately upon resumption of normal physical functioning of the Court, and in any event within one month thereof.

3. The present writ petition has been filed *“for issuance of a writ in the nature of ‘Certiorari’ whereby and whereunder setting aside the order dated 25.07.2019 passed by Central Administrative Tribunal, Patna Bench, Patna comprising of Hon’ble Mr. Jayesh V. Bhairavia, Member (J) and Hon’ble Mr. Dinesh Sharma, Member (A) in O.A. No.050/00176/2016, whereby termination of service of the petitioner vide order dated 29.01.2016 passed by the Assistant Superintendent of Post Offices, Madhepura has been affirmed. Further prayer of the petitioner is for the issuance of the writ in the nature of mandamus whereby and whereunder commanding and directing the respondent No.4 to allow the petitioner to resume his office as GDSMC, Singheshwar S.O. and moreover to command and direct the respondent authorities to make the payment of back wages/unpaid salary with due interest to the petitioner in accordance with law”*.

4. The short facts of the case according to the petitioner are that he was provisionally engaged as GDSMC by order dated 16.03.2013 and continued as such until, all of a sudden, he was served with the impugned termination letter dated 29.01.2016, whereby his aforesaid engagement was discontinued. The petitioner’s engagement had been made, inter alia, on his having

passed the Secondary School Examination (High School) in the year 2002 from the Board of Higher Secondary Education, Delhi.

5. Learned counsel for the petitioner submits that the petitioner had joined as GDSMC, Singheshwar, SO on the basis of passing the examination of Board of Higher Secondary Education, Delhi, which was recognized by the Government of India, Ministry of Education, New Delhi. He has relied on two decisions of this Court rendered in CWJC No. 9694 of 2017 and CWJC No. 16278 of 2011, wherein the termination orders were quashed in view of violation of principles of natural justice and the petitioners therein were directed to be reinstated. Learned counsel for the petitioner submits that in the instant case as well, the termination order has been passed without issuance of any show cause notice or grant of opportunity of hearing.

6. Learned counsel for the respondents, on the other hand, without going into the detailed merits of the matter, invites reference straightway to two judgments of the Division Bench of this Court rendered in CWJC No.18812 of 2017 (Pankaj Kumar Vs. The Union of India and Ors.) and CWJC No. 26 of 2018 (Vivek Kumar Vs. The Union of India and Ors.), in which it has been observed -

“The core issue is that the so called certificate akin to matriculation obtained by this petitioner from the Board of Higher Secondary Education, New Delhi (a fake organization) can form the basis for begetting employment in the Postal Department. Since this is

not an educational institution but a fraudulent organization selling fake certificates, therefore, if this fact is not disputed and the educational qualification of the present petitioner is not a matter of argument then any employment obtained by him on the basis of the said certificate cannot beget him the benefit of continuance in service. The Court will advise the petitioner to acquire knowledge instead of buying knowledge from such institutions. No interference is warranted with the order of the Tribunal. Writ is dismissed."

7. These matters were carried to the Hon'ble Supreme Court in Special Leave to Appeal (C) No.4171 of 2019 and analogous cases, which were disposed of by order dated 27.09.2019 in the following terms -

" Notice was issued in the matter so that the concerned authorities could put on record the circumstances in which communication dated 26.4.2013 was issued and explain the status with regard to "Board of Higher Secondary Education". Affidavits have thereafter been filed on behalf of the concerned authorities which indicates that the concerned "Board of Higher Secondary Education" is not recognized at all; and that the documents appended to the SLPs were not the correct copies of the originals. Nor were those documents existing on the concerned files.

We had therefore, called upon Union of India to publish an advertisement in the newspapers and put in the public domain that the concerned Board was not recognized at all and to warn the entire student

community. The advertisement to that effect has been issued and affidavits of compliance have also been filed.

In the circumstances, nothing further need be done in the matter. The special leave petitions are disposed of.

Pending applications, if any, shall also stand disposed of"

8. Having heard the parties and on a consideration of the materials on record, this Court finds the writ petition to be devoid of merit. The Division Bench has clearly observed that the Board of Higher Secondary Education, New Delhi is a fake and fraudulent organization selling fake certificates. This finding has not been interfered with by the Hon'ble Supreme Court. The decisions of learned Single Judge, relied upon by the petitioner, are, therefore, of no avail. So also, remanding the matter in view of stated violation of natural justice will be an empty formality and will serve no purpose in the face of the matter having already been decided by the Hon'ble Supreme Court. The petitioner fairly states that the status does not appear to have undergone any change thereafter.

9. In above view of the matter, the writ petition stands dismissed.

10. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 2

hereinabvove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

(Anjani Kumar Sharan, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	09.08.2021
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