

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1345 of 2021

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Jai Shankar Kumar @ Jay Shankar Kumar, aged about 37 years (Male), son of Sri Mani Lal Singh resident of Village- Tikaitpur, P.O.- Newra, P.S.- Bihta, District- Patna (Bihar).

... .. Petitioner/s

Versus

1. The Union of India through the Comptroller and Auditor General of India, New Delhi.
2. The Comptroller and Auditor General of India, 9 Deen Dayal Upadhyay Marg, New Delhi- 110124.
3. The Principal Accountant General (Audit), Bihar.
4. The Accountant General (A and E), Bihar, Birchand Patel Marg, Patna- 800001.
5. The Senior Deputy Accountant General (Administration), Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Adv.
For the Respondent/s : Mr. Arun Kumar Arun, Adv.

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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 : 23-08-2021

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

2. The present writ petition has been filed for the following reliefs as formulated by the petitioner-

“(I) To issue an appropriate order/s direction/s including a writ preferably in the nature of CERTIORARI for quashing and setting-aside the order No. Admn. (Au)/CC/OA No. 775 of 2013 Jai Shankar Kumar/ 601 dated 09.03.16 passed by the respondent No. 04 whereby and where under claim of



the petitioner to appoint him on post of Multi Tasking Staff M.T.S. has been rejected.

(II) To quash the order dated 07.07.2020 passed in O.A. /050/00508/ 2016 by the Division Bench of Central Administrative Tribunal, Patna Bench presided by Hon'ble Sri Jayesh V Bhairvavia Member (J) and Hon'ble Sri Dinesh Sharma Member (A) whereby and where under the said O.A. has been dismissed with no orders as to cost and thus upheld the order dated 09.03.16 passed by the respondent No.04 rejecting the case of the petitioner for his appointment to the post of MTS.

(III) To direct the respondents to consider the case of the petitioner and appoint him on the post of M.T.S.

(IV) To any other relief/s to which the petitioner may be found entitled in the facts and circumstances of the case”

3. The short facts of the case according to the petitioner are that he worked in the office of Accountant General (A&E) Bihar, Patna as a casual labour during the period 2004 to 2008 for 690 days. He has been issued experience certificate by the Ex. Sr. Accounts Officer (Annexure-4) for having worked as Peon from 01.04.2005 to 30.06.2006. It is also claimed that he was paid wages from time to time at the rate of Rs. 75/- per day amounting to Rs. 1950/-. Thereafter, he applied for appointment on the post of Multi Tasking Staff (M.T.S.) which was however denied in absence of records to establish that the petitioner was the same



person who had earlier worked as Peon. The matter was then raised before the Central Administrative Tribunal in O.A. No. 775 of 2013, which was disposed of with a direction to pass a speaking order on the petitioner's representation. The respondent no.3 accordingly required the petitioner vide his letter dated 12.05.2019 to produce evidences and documents proving that he was the same person who had earlier rendered services for 690 days in the capacity of a daily wager. In his representation filed on 19.05.2015 to the respondent no.5, the petitioner claims to have submitted various documents including the certificate of Senior Accounts Officer regarding his experience. The said representation however was rejected by the impugned order dated 09.03.2016 (Annexure-10). Against such rejection, O.A. No. 508 of 2016 was preferred by the petitioner which was also dismissed.

4. Learned counsel for the petitioner submits that he has unjustifiably been denied appointment on the post of M.T.S. without considering the various materials and documents on record produced by him in their proper perspective. The petitioner had duly enclosed documents in support of his claim of having worked for 690 days as daily wages during the period from 2004-08 and he is prepared to once again furnish such documents.



5. Learned counsel for the respondents appears and opposes the writ petition, submitting that there are no records available to support the petitioner's claim, in absence of which the petitioner's representation has rightly been rejected.

6. Having heard the parties and on a consideration of the materials on record, this Court is not inclined to interfere in the matter. The nature of the claim of the petitioner is rooted in factual aspects and to be established on the basis of evidences which this Court is not inclined to consider in its writ jurisdiction, particularly in view of the respondents' stand that there are records are not available with them which support the petitioner's claim.

7. The writ petition is accordingly dismissed. It is made clear that the present judgment shall not stand in the way of the petitioner seeking remedy before any appropriate forum as may be available to him in accordance with law.

(Vikash Jain, J)

(Anjani Kumar Sharan, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2021
Transmission Date	

