

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14410 of 2018

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Pankaj Kumar, Son of Shri Nagendra Prasad Shrivastava, Resident of
Mohalla - Nai Bazar, Ward No. 4, P.S. Buxar, District - Buxar.

... .. Petitioner

Versus

1. The State Of Bihar through Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Director, Library and Information Centre, Bihar, Patna.
3. The Incharge Director, Library and Information Centre, Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Wasi Ahmad Khan, Advocate
For the State	:	Mr.Nishant Kumar Jha, AC to SC28

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 26-09-2022 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner claims to have been appointed by an Office
Order dated 13.08.2012, issued by the Superintendent of
Libraries, Bihar, Patna, as a 'Sorter' in the scale of Rs.425-
605/-.

It is submitted by learned counsel for the petitioner
that the communication dated 26.11.1956 issued by the
Government (Annexure-2) empowers the Superintendent of
Libraries, Patna, to make all appointments. It is submitted that
since the petitioner has been appointed by the competent
authority, against a vacant post, the petitioner's removal by
Office order dated 04.11.2016 is unsustainable.



The order dated 04.11.2016 reads as follows:-

"श्री राम नारायण कुंवर (सेवानिवृत्त तत्कालिक पुस्तकालय अधीक्षक, बिहार, पटना के ज्ञापांक -355 दिनांक-13:08.2012 द्वारा श्री पंकज कुमार पिता श्री नगेन्द्र प्रसाद श्रीवास्तव, मो० मीलाबाग, महम्हस्वी कॉलेज के निकट, जिला-आरा को वेतनमान 425-605 का प्रारंभिक वेतन पर नागरी प्रचारिणी जिला केन्द्रीय पुस्तकालय, आरा (भोजपुर) में अस्थायी रूप से सौटर् के पद पर नियुक्ति की गई थी। चूंकि बिना विज्ञापन, बिना रोस्टर, बिना साक्षात्कार एवं बिना विभागीय आदेश प्राप्त किये की गई आपकी नियुक्ति को विभागीय जांच कमिटी द्वारा अवैध पाया गया।

2. विभागीय जांच कमिटी द्वारा समर्पित प्रतिवेदन की समीक्षा की गयी। चूंकि श्री कुमार की नियुक्ति बिना नियुक्ति प्रक्रिया का पालन किये बिना ही की गई थी, जो पूर्णतः अवैध थी। अतएव इस कार्यालय के पत्रांक-399 दिनांक-07 10.2016 द्वारा श्री कुमार से कारण पृच्छा मांगी गई, परन्तु इनके द्वारा अपना किसी प्रकार का कारण पृच्छा कार्यालय को उपलब्ध नहीं कराया गया।

अतः वर्णित परिस्थिति में श्री कुमार की नियुक्ति पत्र निर्गत की तिथि से रद्द की जाती है। साथ ही भुगतान की गई राशि की वसूली भी सुनिश्चित की जाय।
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The petitioner has not denied or disputed the fact that his appointment was without any Advertisement or compliance with Article 14 and 16 of the Constitution of India. The claim of the petitioner that he has been appointed is also *prima facie* unsustainable based on the order dated 13.08.2012, which clearly specifies that he has been promoted against the vacant post of 'Sorter'. Whether the post of 'Sorter' was in the line of



promotion from 'Sweeper' or not is another relevant issue which has not been addressed by the petitioner.

Even if submission of petitioner's counsel that the Superintendent of Libraries was competent to appoint the petitioner against the vacant post of 'Sorter' is accepted as correct, it cannot be countenanced, that appointment be made arbitrarily, without any advertisement; and in violation of Articles 14 & 16 of the Constitution of India.

There is no semblance of legality in the petitioner's claimed temporary appointment under office order dated 13.08.2012. The same is not in compliance with Article 14 of the Constitution of India.

The Court does not find any reason to interfere with the impugned office order dated 04.11.2016. No case is made out for issuance of any writ.

Writ application is dismissed.

(Madhuresh Prasad, J)

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