

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.541 of 2019

In
Civil Writ Jurisdiction Case No.3915 of 2015

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Ram Sagar Singh Son of Late Jaddu Singh permanent resident of village Bijuliya , P.S. Shambho, District Begusarai, presently resident of Ward No. 8, Karyanand Nagar , Lakhirarai, P.S. Lakhisarai, District- Lakhisarai.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Commissioner Munger Division, Munger
3. The District Magistrate-cum-Collector Lakhisarai
4. The District Development Commissioner Lakhisarai
5. The Additional District Magistrate Lakhisarai
6. The District Najarath Officer Lakhisarai
7. The Sub-Divisional Officer Lakhisarai
8. The Block Development Officer Lakhisarai

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Pramod Kumar, Advocate
For the Respondent/s : Mr.Prabhat Kumar Verma (AAG-3)

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date :19.05.2022

The present appeal has been filed against the judgment dated 13.08.2018 passed by the learned Single Judge in CWJC No. 3915 of 2015, whereby and whereunder the writ petition has been dismissed.

2. The brief facts of the case according to the appellant herein is that the appellant was engaged as a Jeep Driver on daily wage basis in Lakhisarai Collectorate in the year



1994, whereafter he continued to work as such for a considerable time. It is stated that in the meantime a selection board was constituted and a select list of seniority qua the drivers in the district of Lakhisarai was prepared in the year 2002 and some persons were also appointed from the said select list, which though was challenged but was upheld up to the Hon'ble Apex Court. It is the case of the appellant that since similarly situated persons have been appointed as drivers on regular basis, appellant is also required to be appointed as a driver on regular basis.

3. Per contra, the case of the respondent-State is that the appellant herein has not approached this Court with clean hands inasmuch as in the year 2001, there were 12 sanctioned posts in the Lakhisarai collectorate against which 7 drivers were already working since the year 2001, however, on account of certain error, roster clearance of 12 vacant posts was sought from the Commissioner, Munger Division, vide letter dated 12.10.2001, which was accorded subsequently, however, at the time of such roster clearance, only 5 posts were vacant. Thereafter, the District Magistrate, Lakhisarai vide letter dated 23.05.2002 had sought the list of experienced drivers enrolled with the employment exchange at Munger and in reply thereof the



employment exchange vide letter dated 13.06.2002 had sent a list of drivers enrolled with the employment exchange, whereafter the Nazarat had prepared a list on the basis of requisite qualification & experience and accordingly two persons namely Nageshwar Paswan and Ashok Kumar were selected for appointment, in the meeting held on 25.06.2002. Thereafter, two persons namely Mithilesh Kumar Singh and Suresh Prasad were selected for appointment in the meeting held on 17.03.2008. Subsequently, error was again detected in the roster which was then rectified and it was found that in the year 2012, 10 posts had been filled up and only three posts were vacant. It is further submitted that during the interregnum period, the post of driver was declared as Class-3 posts, hence appointment was/is required to be made through the Bihar Karmchari Chayan Aayog. It is also stated that on account of various orders passed by this Hon'ble Court, all the sanctioned posts of driver have been filled up, except one which is a vacancy pertaining to the year 2014 and not 2001.

4. The learned counsel for the respondent-State has also submitted that at present only one post is vacant and this vacancy is of the year 2014. It is further contended that as per the list published in the year 2002, the petitioner's name figured



at serial no. 12. In this list date of birth of the petitioner has been mentioned as 12.06.1967 and license no. is 4788/78. This shows that the petitioner was granted license when he was just 11 years, which itself disputes the claim of the petitioner and shows that the petitioner has committed a fraud.

5. Lastly, it is submitted by the learned counsel for the respondent-State that as per the 2001 roster 5 vacancies were existing, which have already been filled up, hence now there is no vacancy remaining to be filled up as far as roster of the year 2001 is concerned, hence the appellant herein, in no way can be accommodated.

6. We have heard the learned counsel for the parties and gone through the impugned judgment dated 13.08.2018 as also the materials on record from which it is clear that the roster prepared in the year 2001 has already worked out its force apart from the fact that the process of selection of driver has been changed and now the same is being carried out by the Bihar Karmchari Chayan Aayog. We also find that there is no vacancy, as per the roster of the year 2001, hence in no manner, the appellant herein can be granted any relief, apart from the fact that the writ petition suffers from the vice of delay and laches inasmuch as the appellant has taken 16 years to suddenly



wake up from deep slumber and approach this Court for grant of the relief prayed for, which would definitely amount to unsettling the position which has already stood settled long back. Consequently, we do not find any error or infirmity in the impugned judgment dated 13.08.2018 so as to warrant any interference, hence the present appeal stands dismissed.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

S.Sb/-

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