

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10553 of 2018

1. The Union Of India and Ors
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Post Master General, Northern Region, Muzaffarpur.
4. The Assistant Director Staff, O/o the Post Mater General, Northern Region, Muzaffarpur.

... .. Petitioner/s

Versus

Bharat Kumar Patel Son of Late Hridai Narayan Prasad, Resident of Village and PO- Subhankarpur, Via- Patahi, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raj Kamal, CGC
For the Respondent/s	:	Mr. Jayant Kumar Karn, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 22-06-2022

Heard learned counsel for the parties.

2. In the instant petition the petitioner – Department have questioned the validity of order dated 11.07.2017 passed in O.A. No. 050/00119 of 2015 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short “Tribunal”). The respondent was initially appointed as daily rated employee in the Office of the Postmaster General, Northern Region, Muzaffarpur with effect from 16.03.1982. He was subjected to certain criteria for the purpose of bringing him against one of the Group – D post and on temporary/*ad hoc* basis respondent was extended the



benefit of Group – D on 06.07.1983. Thereafter, his services were dispensed on certain issues. Further his services were re-engaged on 06.05.1999 and thereafter his services were regularized on 17.11.2000. When things stood thus one of the journalists namely Shri Parmanand Thakur submitted complaint/representation to the authorities to the extent that respondent's regularization is not in order. The respondent issued a letter on 12.08.2009 communicating to the journalist that regularization was in accordance with certain policy decision of the Department which has been taken note of by the Tribunal while extracting the relevant portion in paragraph No. 3 of the order.

3. The Department contended that respondent's regularization or absorption was not in accordance with policy decision of the Government of India to the extent that during the month of May 2001 to April 2009 there was a ban in filling up of a civilian post. In this regard respondent had approached the Patna Bench in O.A. No. 103 of 2011 and it was disposed off directing the authorities to examine the respondent's grievance within a period of four months. After due examination the Department passed adverse order against the respondent on 03.02.2015 while reiterating that order of termination dated 18.02.2011 was in accordance with the relevant orders issued by the Department



from time to time read with Government of India policy decision. Thus, the respondent preferred O.A. No. 119 of 2015 and it was decided by the Tribunal on 11.07.2017 in favour of the respondent after due consideration of factual aspects of the matter and the stand taken by the petitioner – Department in their written statement which have been quoted in paragraph Nos. 8 to 10 of the Tribunal order.

4. The Tribunal has also taken note of order dated 18.07.2007 by which respondent's services have been regularized with effect from 17.11.2000. It has also taken note of earlier mode of selection of the respondent that his name was sponsored by the Employment Exchange and he was subjected to undergo medical examination and other criteria.

5. The petitioner – Department, feeling aggrieved by the order of the Tribunal dated 11.07.2017 presented this petition. Learned counsel for the petitioners vehemently contended that respondent's appointment was not made by the competent authority and during ban period respondent's services have been regularized. Both the issues have been dealt by the Tribunal while deciding the O.A. No. 119 of 2015 as is evident from the order.

6. It is to be noted that undisputedly the Department has not taken any action against such of those officials who have issued



order of appointment to the respondent. That apart the Department has opened their eyes after more than one decade of respondent's appointment as well as regularization. Further it is to be noted that ban of filling up of civilian post under the Government of India was during the period from May 2001 to April 2009, whereas respondent's services have been regularized with effect from 17.11.2000 as on 17.11.2000 ban of filling up of civilian post was not in vogue. In other words ban in filling up of civilian post is beyond the date of regularization namely 17.11.2000 and it is in the month of May 2001 to April 2009. In the light of these facts and circumstances, the petitioner – Department has not made out a *prima facie* case so far as to interfere with the order dated 11.07.2017 passed in O.A. No. 050/00119 of 2015 by the Central Administrative Tribunal, Patna Bench, Patna.

7. Accordingly, petition stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

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CAV DATE	
Uploading Date	27.06.2022
Transmission Date	

