

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL REVIEW No.439 of 2017

In

Civil Writ Jurisdiction Case No.9740 of 2013

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Ashok Kumar Singh Son Of Sir Vijay Shankar Singh GDS Mail Deliver
Kharenda, P.O. Via - Bhagwanpur, S.O. District - Kaimur, Resident Of Village
- Belaon, P.O. - Kharanda, Police Station- Belaon, District - Kaimur Bihar,
PIN- 821102.

... .. Petitioner/s

Versus

1. The Union Of India and Ors
2. The Chief Postmaster General, Bihar Circle, Patna - 800001
3. The Superintended Of Post Offices, Rohtas Division, Sasaram- PIN-
821115.
4. Sub Divisional Inspector Of Post Offices, Bhabua Sub Division Of At
Bhabua, P.O. - Bhabua, District
5. Bhagwan Singh Son Of Sri Bindeshwari Singh G.D.S. Mail Deliverer
Kharenda EDEO EDDA Via Bhagwanpur, District Kaimur, Resident Of
Village P.O. Kharenda, District - Kaimur, PIN- 821102.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh

For the Opposite Party/s : Mr. Pankaj Kumar Singh, C.G.C

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

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

Date : 07-08-2023

Heard.

2. Civil Review No. 439 of 2017 has been preferred to recall the order dated 05.02.2015 passed in C.W.J.C. No. 9740 of 2013. A Coordinate Bench of this Court proceeded to dismiss the Review Petitioner's claim on the assumption that petitioner was appointed to the post of Extra Departmental Delivery Carrier during the general policy of the Postal Department that there was a ban of recruitment.

3. This Court on 25.09.2019 passed the following order :

“ Heard learned counsel for the applicant.

We had adjourned the matter to enable the learned counsel to enlighten the Court about the existence of the ban and also the explanation for the delay.

Learned counsel has advanced the submissions and we find sufficient cause having been shown in explaining the delay.

We accordingly, condone the delay in filing of this review application which shall henceforth be treated to be



filed within time.

The issue raised while arguing this review application is that the Division Bench that disposed of the matter finally erroneously assumed against the record that there was a ban continuing on the date when the applicant came to be appointed i.e. on 26.03.2002 which is Annexure R/2 to the reply filed on record.

The question is as to whether the applicant's appointment was executed during a period when a ban actually existed or not. Learned counsel for the applicant has invited the attention of the Court to the document that has been filed as Annexure 7 dated 3rd August, 2001 and has placed clause 4 thereof to contend that the process of the appointment had already commenced whereafter the ban is alleged to have been imposed but even otherwise there was no material to indicate that there was any ban existing as on the date when the applicant came to be appointed in the year 2002.

In such circumstances, we call upon the learned counsel for the Postal Department to obtain instructions and file an affidavit as to what was the status of ban and was there any relaxation in respect of such ban as on the date when the applicant came to be appointed i.e. on 26.03.2002. The affidavit be filed by the next date.

List on 23rd of October, 2019.”

4. Pursuant to the order dated 25.09.2019, respondents have filed supplementary counter affidavit. In para-7, they have stated as under:

“ That in connection with the engagement of the petitioner,



namely Shri Ashok Kumar Singh on 26.03.2002, it is submitted that the notification for the engagement to the post of Extra Departmental Delivery Agent (EDDA) Kharendra BO was notified by the IPs Bhabhua on 03.08.2001 and thereby the recruitment action for engagement of EDDA Kharendra was processed on 06.08.2001, i.e. well before receipt of Circle Office, Patna Letter No. R & E - 76/ Misc./ 97 dated 03.08.2001, which was received on 03.08.2001 in the office of the SPOs Rohtas and circulated to units on 08.08.2001. Therefore, the aforesaid ban on selection of GDS under direct recruitment was not applicable in casae of engagement to the post of EDDA Kharendra BO in accordance with instructions contained in CO letter dated 03.08.2001 (Annexure-A to counter affidavit) as follows:-

"However, wherever recruitment action to fill up GDS posts is already in process, that action may continue and these posts may not be offered to wait listed candidates."

5. Having regard to the dates and events that the petitioner was appointed on 06.08.2001 after due process of recruitment. Thereafter, official respondents have taken a decision that the petitioner was appointed during the ban of recruitment period and it is not so. The same has not been apprised at the time of deciding CWJC No. 9740 of 2013.

6. Therefore, it is a case of error apparent on the face of the records. In other words, existing material



information has not been brought to the notice of this court by respondent Postal Department-Authority.

7. Hence, the Review Petitioner has made out a case so as to recall the order dated 05.02.2015 passed in C.W.J.C No. 9740 of 2013.

8. Accordingly, order dated 05.02.2015 passed in C.W.J.C No. 9740 of 2013, stands set aside and the Civil Review 439 of 2017 is allowed. In the result, CWJC No. 9740 of 2013, stands restored on the file.

9. Registry is hereby directed to list C.W.J.C No. 9740 of 2013 before roster Bench.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

Amrendra/chand
an/-

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

