

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.892 of 2019
In
Civil Writ Jurisdiction Case No.17681 of 2012

Amar Nath Jha Niwasi Gram - Mansar Colony, Naka No. 2, Kadirabad, Zila-Darbhanga Bihar Appellant/s

Versus

The State of Bihar through Principal Secretary, Finance Department.
... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Amar Nath Jha (In Person)

For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 08-05-2023

Heard Mr. Amarnath Jha, the appellant
who has appeared in person.

2. The present appeal has been preferred against the order dated 07.05.2019 passed by the learned Single Judge in C.W.J.C. No.17632 of 2012 by which the said writ petition was dismissed holding that the denial of the claim of the petitioner-appellant for grant of his 1st and 2nd time bound promotions as well as annual increment of pay which were withdrawn by the respondents need no interference.

3. The matrix of facts giving rise to the present appeal is/are as follows:-

4. The petitioner-appellant was appointed



as an Auditor on 03.12.1977 and was further made Senior Auditor, Class-II effective from 01.05.1980 after the government decided to merge the post of Auditor with that of the Senior Auditor, Class-II on which post, he retired on 31.12.2011.

5. As per his service condition, the annual increment was depending on the passing of the “Hindi Noting and Drafting Examination” conducted by the Rajbhasha Department, Government of Bihar. Further, for the confirmation and promotion to the post of Senior Auditor, he was required to pass departmental examination consisting of four papers, the details of which are as follows:-

- (i) service condition and allied matters;
- (ii) account and financial rule;
- (iii) audit and account;
- (iv) (a) budget and constitution
(b) works account.

6. The petitioner-appellant got the annual increment vide office order no. 420 dated 23.07.1987 which was also entered in his service book. The petitioner-appellant at the particular time was posted with the office of Deputy Controller of Account, Darbhanga Division. Later, it came to notice of the



Chief Controller of Accounts that wrong entry has been made in the service book and accordingly, the service book was requisitioned for verification which was dispatched through special messenger. However, during the transit, his service book was stolen from the special messenger which led to the lodging of the FIR with the Kotwali Police Station, Patna.

7. Later, the service book of the petitioner-appellant was reconstructed and sent to the office of District Accounts Officer, Muzaffarpur for verification and fixation. At the relevant period, the petitioner-appellant was posted in the office of the Deputy Controller of Account, Tirhut Division, Muzaffarpur (henceforth for short 'the office').

8. It later came to notice from the issue register maintained in 'the office' that the service book was received by the petitioner-appellant himself who also put in his signature in the issue register. However, when the same was demanded by 'the office', he chose not to submit it. The respondent-authority left with no option had to stop his annual increment of pay and immediately thereafter, the petitioner-appellant submitted his service book on 04.02.1990. In between, he kept the same in an unauthorized manner. Thereafter it came to the notice of 'the office' that in the re-constructed service



book, fraudulent entry has been made regarding the petitioner-appellant having passed the departmental examination as well as the 'Hindi Noting and Drafting Examination'.

9. So far as the passing of the departmental examination is concerned, in the service book, it was recorded as follows:-

“by the order of the Chief Controller of Account, I visited the Board of Revenue and verified the result of the Departmental examination of Accounts and Audit, checked and found that he has been declared passed in higher standard in all the papers of all the subject”

10. Further, so far as the passing of 'Hindi Noting and Drafting Examination' is concerned, in the reconstructed service book, the following incorporation was made:

“by the order of Chief Controller of Account. I visited the Rajbhasha Vibhag and verified the result of Hindi Noting and Drafting and found that he has been declared passed in higher standard”

11. It was found to be forged and



fabricated entries in re-constructed service book as no such order was ever given by the Chief Controller of Accounts. Further, although there was entry regarding the passing of the departmental examination, no roll number, year of examination, name of the examination centre as also the memo number was/were there.

12. Accordingly, 'the office' made enquiry from the office of the Deputy Secretary, Board of Revenue, Bihar, Patna who in turn vide office letter no. 431 dated 05.05.2011 replied that the petitioner-appellant passed in only one paper i.e. Budget Constitution and Construction Account with lower marks in the first half yearly exam held in the year 1990 and has not cleared all the four papers prescribed.

13. Regarding 'Hindi Noting and Drafting Examination' conducted by the Rajbhasha Department, Government of Bihar, Patna, the said Department vide its office letter no. 79 dated 14.09.2005 confirmed that he never passed the examination and thus it was found that this was also a forged entry.

14. The petitioner-appellant was thereafter directed to provide details of his roll number, year of passing examination and the examination centre so that the genuineness



of the incorporation so made could be confirmed. However, no such material was ever provided by him.

15. The respondent-authorities having been convinced that the petitioner-appellant, who himself received the service book and put in his signature in the issue register was the person behind the forged and fabricated entries in the said service book initiated departmental proceeding. Charges framed against him were proved and accordingly vide office order no. 263 dated 11.11.2005 punishment of ‘**censure**’ was inflicted upon him. Further, direction was given to realize the excess amount paid to him. The said order also recorded that since he has not passed the ‘Hindi Noting and Drafting Examination’ as also the departmental examination, his claim for promotion will not be considered till he clears the same. Further direction was given to delete the entries relating to his passing the examinations from the service book.

16. Aggrieved, an appeal was preferred which came to be dismissed vide an office order no. 193 dated 23.02.2007 by the Joint Secretary cum Chief Controller of Accounts, Finance Statistics, (Department), Patna Bihar.

17. Thereafter, the petitioner-appellant moved before the Hon’ble Lokayukta, Bihar which took up the



matter and disposed of the same on 17.10.2008 (communicated to the petitioner-appellant vide letter no. 848 dated 09.02.2009) by which after recording the stand of the State, the Hon'ble Lokayukta, Bihar recorded that it is difficult to grant any relief to him.

18. Still aggrieved, the CWJC No. 17632 of 2012 was filed for quashing of the order no. 263 dated 11.11.2005 and order no. 193 dated 23.02.2007 as also the order of the Hon'ble Lokayukta dated 17.10.2008. The further prayer was made to grant him the 1st and 2nd time bound promotion as also the third ACP and to make payments accordingly.

19. While the petitioner-appellant appeared in person before the writ court, the State was represented through its Law Officer and a counter affidavit was also filed.

20. Before the writ Court, the petitioner-appellant confined his prayer to grant of time bound promotion as well as annual increment. The writ Court taking into account the entire facts as also the clear observation of the respondents vide its order dated 07.05.2019 held that no relief as claimed by the petitioner-appellant can be granted. Accordingly, the same was dismissed.

21. Aggrieved, the present appeal has been



preferred by the petitioner-appellant who has chosen to appear in person.

22. Heard Mr. Amarnath Jha, the appellant who has appeared in person.

23. At the outset, this Court informed the appellant that if need be, legal assistance can be provided to him. However, he refused to take any legal assistance and insisted on making the submissions himself. He assailed the order of the learned Single Judge and submitted that before the writ Court, although he had preferred the writ petition in Hindi, the counter affidavit filed by the State was in English and in absence of its Hindi translation, he could not understand what was narrated therein which led to the dismissal of his writ petition.

24. He was reminded of the fact that although he has the discretion of filing the petition in Hindi, the mode of language in Patna High Court is English and as such the petition needs to be translated in English. Further, it would not be proper to direct the State to file Hindi translation of its reply. The petitioner-appellant always have the option to get it translated into Hindi for his better understanding.

25. Further, when it was enquired from



him as to whether the said stand was taken by the petitioner-appellant before the writ Court, the reply was in negative.

26. As the petitioner-appellant kept on insisting that this being State of Bihar, the mode of language in the court should be Hindi and not English he was reminded of the fact that Judges all over the country are transferred to one or the other High Courts and in Patna High Court also, Judges of different High Courts as also from Southern India are transferred, it would not be feasible for them to conduct the proceedings in Hindi.

27. However, as the appellant stretched the matter further, to settle the dust, it became important for this Court to deal with the issue first.

28. Chapter- III of Part – XVII the Constitution of India deals with the language of the Supreme Court, High Court etc. and read as follows:

CHAPTER III

LANGUAGE OF THE SUPREME COURT, HIGH COURTS, ETC

348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.-(1)
Notwithstanding anything in the foregoing, provisions of this Part, until Parliament by law otherwise provides



(a) all proceedings in the Supreme Court and in every High Court.

(b) the authoritative texts-

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and

(iii) of all orders, rules, regulations and bye-aws issued under this Constitution or under any law made by Parliament or the Legislature of a State, shall be in the English language.

(2) Notwithstanding anything in sub-clause (a) of clause (1), the Governor of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State: Provided that nothing in this clause shall apply to any judgment, decree principal seat in that State: or order passed for made by such High Court.

(3) Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English for use in Bills introduced in, or



Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that language sub-clause, a translation of the same in the English language published under the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.

349. Special procedure for enactment of certain laws relating to language.-During the period of fifteen years from the commencement of this Constitution, no Bill or amendment making provision for the language to be used for any of the purposes mentioned in clause (1) of article 348 shall be introduced or moved in either House of Parliament without the previous sanction of the President, and the President shall not give his sanction to the introduction of any such Bill or the moving of any such amendment except after he has taken into consideration the recommendations of the Commission constituted under clause (1) of article 344 and the report of the Committee constituted under clause (4) of that article.

29. Further paragraph-2 of the Patna High Court Rules which relates to the procedure and practice it read



as follows :-

(i) Every application to the High Court shall be by a petition written in the English language.

30. Further, in the case of **Vinay Kumar Singh Vs. BSEB reported in 2003 (2) PLJR 464**, it was held that the petitions and affidavits can also be presented in Patna High Court in Hindi as an alternative to English language except writ petition under Article 226/227 of the Constitution of India which must be in English. Further, the annexures thereto can be in Hindi and in appropriate cases, the High Court can give direction for translation of the same in English. All petitions relating to tax reference can be presented only in English Language.

31. It is important to note that the Full Bench of Patna High Court in the case of **Krishna Yadav Vs. The State of Bihar through Home Secretary and Others in Cr. WJC No. 435 of 2015** reported in **2019 (2) PLJR 809** in paragraph 41 to 43 held as follows:-

41. The study of the said debate on the use of official language vis-a-vis the use of such language in the High Court, therefore, assumes importance as the right of lawyers



to practice in all Courts throughout the country coupled with the transferability of the post of a High Court Judge under Article 222 of the Constitution of India cannot be lost sight of. The languages incorporated in the Eighth Schedule may be utilized as an alternative language subject to the fulfillment of the conditions under Article 348(2) of the Constitution of India, but to replace English which still continues to be a common language utilized all over the High Courts of the country cannot be ignored. This has to be viewed from the angle that even though the propagation of Hindi as a National language has seen a growth and adoption in the official work of the Union as well as a large number of the States, but so far as the judiciary is concerned, the use of the English language in all the High Courts of the Country as well as the Supreme Court continues to be English. The wide availability of legal expressions in the English language has not yet been perfectly substituted in any other regional language including Hindi.

42. It should not be forgotten that the use of language is to be a matter of practice and to be inculcated from childhood to adolescence and beyond. This includes the use of language at home, in school and in the official curriculum. The executive in a federal structure has succeeded to a great extent in using the language of Hindi and enforcing its



implementation in all matters of the Union, but in view of the federal structure ingrained in the Constitution, the respective States continues to use their local regional language which has a diversity and, therefore, is officially recognized under the Eighth Schedule where the number of languages placed therein is 22.

43. Coming back to the use of language in the High Court and with the recognition of the regional languages as a mode of spoken communication in Courts throughout the country, will it be feasible for a lawyer proficient in the Hindi language to argue his case in Hindi efficiently and promptly, say in the High Court of Kerala where Hindi is not the official language of the Court. This can be viewed vice versa in respect of all the States that are divided into different regions. The Hindi in its usage does have a natural wide acceptance in a large region of Northern India comprising of various States, like Rajasthan, Madhya Pradesh Himachal Pradesh, Uttrakhand, Uttar Pradesh, Chattisgarh, Jharkhand and Bihar, but the moment one crosses the boundaries of these States, this acceptability of communication as a Court language gets reduced and the local regional languages take over. This is not to say that the promotion of Hindi should be impeded and not promoted, but this is a practical outlook that was envisioned by the Constitution framers and appropriate provisions were made in order to



achieve the objective of a National official language.

32. This Court also took note of the observation of the Full Bench where it was held that the right of the lawyers to practice in all courts through out the country couple with the transferability of the post of High Court under Article 226 of the constitution of India cannot be lost sight off. Further, the Hindi units does have a wide acceptance in region of Northern India, but the moment one crosses the boundaries of the Northern States, this acceptability of communication as a court language gets reduced in the local regional language States.

33. Thus, in the considered view of this Court a litigant, who is appearing in person, as in this case, has the option of filing his/her petition in Hindi and the same can be translated to English; it would not be feasible to insist that the replies by the respondents be also provided to him/her in Hindi.

34. As observed earlier, the appellant was repeatedly asked whether he needs legal assistance by any lawyer to which his answer was in negative.

35. Having clarified the language issue, now the facts of the present case. This Court has gone through



the appeal and also perused the records. The story that unfolds gives a clear picture that:

(i) the petitioner-appellant was required to pass 'Hindi Noting and Drafting Examination' conducted by the "Rajbhasha Department, Bihar, Patna" for annual increment;

(ii) he was further required to pass departmental examination consisting of four papers, for confirmation and promotion;

(iii) he never cleared 'Hindi Noting and Drafting Examination' and further appeared in only one paper i.e. "Budget Constitution and Construction Account" out of four papers in the departmental examination and got lower marks;

(iv) however, while being posted in the office of Deputy Controller of Accounts, Darbhanga Division, Darbhanga, the allegation was that in 1987, he got forged entries regarding passing of both the examinations in his service book and accordingly was able to get the benefits, he was not entitled for;

(v) upon knowledge, the Chief Controller



of Accounts requisitioned service book of the petitioner-appellant which was stolen from the special messenger resulting into lodging of the F.I.R.;

(vi) the service book was re-constructed and sent to the District Accounts Officer, Muzaffarpur but the petitioner-appellant himself received the same as per the issue register maintained in the office of Deputy Controller of Accounts, Tirhut Division, Muzaffarpur and despite request chose not submit it to the office;

(vii) only after his annual increment was stopped that he submitted the service book on 04.02.1990;

(viii) upon perusal, the forged entries came to the knowledge of the respondent-authorities;

(ix) accordingly, departmental proceeding was initiated against him and punishment inflicted vide order no. 263 dated 11.11.2005;

(x) it was further observed in the said



order that he will not be entitled for any benefit until he clears the examination;

(xi) the said order thereafter was confirmed in appeal;

(xii) even the petition before 'the Lokayukta' was rejected.

(xiii) aggrieved, he preferred a case vide C.W.J.C. No. 17681 of 2012 which was dismissed on 07.05.2019 by the learned Single Judge with reasoned order.

36. We have incorporated the entire facts in the order. It has taken us to only one conclusion that the order dated 07.05.2019 passed by the learned Single Judge in CWJC No. 17681 of 2012 is fully justified and need no interference.

37. There is no merit in the appeal. The same is accordingly dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Jagdish/-

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