

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3416 of 2018

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Braj Kishore Singh son of Late Ishwari Prasad Singh resident of the house of Bisheshwar Singh near Deepak Dairy Farm North Anandpuri, Patna, Police Station - Patliputra, Patna, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate, Patna.
4. The Sub-Divisional Officer, Paliganj Sub-Division, District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sumit Kumar, Advocate
For the Respondent/s : Mr. Suman Kumar Jha, AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 22-09-2023 Heard the parties.

2. The present petition has been preferred for the issuance of an appropriate writ order or direction for quashing the order of the District Magistrate, Patna issued vide memo no.2706 dated 5.8.2013 and the order issued vide memo no.2169 dated 19.8.2014 and the order passed by respondent no.2 dated 11.7.2017 in service appeal no.319 of 2015 by which there is resignation of the petitioner from the post of clerk was accepted within a period of one month without waiting for the prescribed



period of three months in such matter of voluntarily resignation and asking a 2nd thought on submission of voluntarily resignation and on petition given to recall the same was not considered and the Divisional Commissioner has also affirmed the same. Be further give direction to the respondents for assuming the duty of the post of clerk in pursuant to his appointment and joining on the said post.

3. The petitioner got compassionate appointment in place of his wife who was posted as an Executive Magistrate in the Sub Divisional Office, Patna Sadar died on 13.05.2011 in an accident.

4. Subsequently, he joined the office of the Deputy Collector, Establishment, Patna Collectorate, Patna on 07.03.2013. Later, he was transferred to the office of Sub-Divisional Officer, Paliganj and deputed in the office of Deputy Collector Land Reforms, Paliganj where he submitted his joining on 03.05.2013.

5. The case of the petitioner is that he was upset with the death of his wife and as such, he submitted his resignation through registered post to the Sub-Divisional Officer, Paliganj on 08.07.2013.



6. It is his case that since no information was forthcoming, he took the RTI route whereafter came to notice as communicated vide memo no. 191 dated 27.10.2014 by which it was informed that vide memo no. 2706 dated 05.08.2013 his resignation letter was accepted (Annexure 3 to the petition).

7. Learned Counsel for the petitioner submits that a petition was preferred on 15.04.2014 for recall of his resignation letter which came to be rejected on 19.08.2014 (Annexure 1/A to the petition).

8. Thereafter he preferred appeal before the Divisional Commissioner, Patna which was rejected on 11.07.2017.

9. Aggrieved, the present petition.

10. Learned Counsel for the petitioner submits that admittedly, he was upset due to death of his wife and in a haste, he submitted resignation. However, without waiting for the mandatory 90 days, the same was accepted within a month.

11. He made a representation for recall of his resignation on 15.04.2014 which as stated above, rejected and later confirmed by the Divisional Commissioner, Patna Division, Patna. He submits that an opportunity should be given to him before accepting the resignation in a haste.

12. Learned State Counsel on the other hand, with the



help of counter affidavit filed on behalf of the respondent no.3, the District Magistrate, Patna in support of the order has submitted that admitted fact is/are that:-

(i) the petitioner submitted his resignation on 08.07.2013;

(ii) it was accepted on 05.08.2013;

(iii) it is not the case of the petitioner that he made a prayer for recall of his resignation within 90 days;

(iv) nine months later, he preferred the petition which was rightly rejected;

(v) as his appeal stands rejected, he do not have any case.

13. Having gone through the facts of the case, the submissions put forward by the parties, this Court finds force in the submissions put forward by the learned Counsel for the respondent. The petitioner on his own submitted his resignation and only nine months later, wanted a recall by which time a lots of water had flown down the ganges inasmuch that on 05.08.2013 itself, the same was accepted.

14. This Court has all the sympathy for the petitioner if he was under mental stress due to the death of his wife which although took place two years ago in 2011, no relief can be



extended to him in the present matter.

15. The writ petition fails and is accordingly dismissed.

(Rajiv Roy, J)

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