

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7038 of 2016

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Pankaj Kumar Son of Harshit Prasad Yadav resident of Mohanpur
(Keshopur), P.S.- Jamalpur, District- Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The District Magistrate, Munger.
3. The Excise Superintendent, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prashant Sinha, Advocate
For the State	:	Mr. Vivek Prasad, Gp-7
		Mr. Sudhanshu Bhushan, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 11-01-2024

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

2. The present writ petition has been filed for the
following reliefs :

*“(i) For issuance of necessary direction to
the respondent authorities to accept the joining of
the petitioner on the post of Executive Assistant,
ignoring his resignation letter dated 22.10.2014,
which was submitted under duress, as the petitioner
was having second position in the panel prepared by
the District Magistrate, Munger for the B.C. category
candidates.*



(ii) For holding that the petitioner was punished for raising his voice against the illegal manner of recommendations being made by the office of the District Magistrate inasmuch as several persons, who were not even in the panel, were recommended for appointment. When the petitioner raised his voice, he was appointed but he was put under such duress that he was forced to submit his resignation.

(iii) For issuance of writ in the nature of certiorari for quashing of the resignation letter submitted by the petitioner on 22.10.2014 under threat and duress because a resignation letter is a voluntary act on the part of a person.

(iv) For any other direction, which your Lordships may deem fit and proper in the facts and circumstances of the case.”

3. Pursuant to the advertisement issued by the respondent no. 1 the petitioner has applied for the post of Executive Assistant on contract basis and after appearing in the skill test which was conducted by the respondent no. 2, the petitioner was selected on the post of Executive Assistant. Thereafter, the respondent no. 2 has recommended the name of the petitioner in the office of Excise Superintendent. Pursuant to that the petitioner



joined in service on 13.10.2014 and from perusal of the appointment letter of the petitioner i.e. Annexure-5 of the writ petition reflects that the appointment of the petitioner was made on contractual basis and thereafter the petitioner had sent his resignation letter vide letter dated 22.10.2014 and thereafter the petitioner again written a letter on 10.12.2015 to the District Magistrate (respondent no. 2) stating therein that my joining may be accepted in accordance with law but the respondent authority has not accepted the contention of the petitioner and as per instruction even the resignation of the petitioner was not accepted as yet and the respondent may be directed to accept the joining of the petitioner on the post in question.

4. Learned counsel for the State on the other hand referring the counter affidavit stating therein that the petitioner was appointed and he had joined on 13.10.2014 and thereafter he sent his resignation letter to the authority concerned on 22.10.2014 and pursuant to the letter of the respondent no. 3, the respondent no. 2 sent another person namely Dhiraj Kumar Verma in place of the petitioner and he is working in place of the petitioner in the office of the Superintendent of Excise, Munger and panel has already expired after one year of preparation of panel and petitioner has requested the authority to accept his joining after more than a year i.e. 10.12.2015 after the expiry of panel.



5. In reply, learned counsel for the petitioner relied upon the judgment of the Hon’ble Supreme Court in the case of **Air India Express Limited and Ors. Vs. Capt. Gurdarshan Kaur Sandhu** passed in **Civil Appeal No. 6567 of 2019** and in the case of **The Govt. of NCT of Delhi & Ors. Vs. Kamlesh Rani Bhatla** passed in **Civil Appeal No. 1927 of 2023** and the order of this Court dated 17.12.2013 passed in LPA No. 598 of 2013. He further submits that the Hon’ble Apex Court has held that even if the resignation has been accepted by the authority concerned, the person concern may withdraw his resignation.

6. In the present case, the petitioner has joined the post in question on 13.10.2014 on contractual basis and he resigned on 22.10.2014 and another person had already joined in place of the petitioner.

7. In view of the discussions held hereinabove, this Court is of the considered opinion that no right is accrued to the petitioner to join the service after resignation and after the panel has expired in accordance with Rule.

8. The writ petition stands dismissed.

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(Rajesh Kumar Verma, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.01.2024
Transmission Date	N.A.

