

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11236 of 2019

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Mitul Kumar Singh Son of Navendu Kumar Singh R/o Village and Post
office-Nayanagar, Via Mangalgarh, P.S.-Hasanpur, District-Samastipur, Pin-
848208

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Law,
Government of Bihar, Secretariat, Patna-800001
2. Patna High Court through the Office of Registrar General, Patna
3. The Office of the District Judge Darbhanga through the Registrar, Civil
Court, Darbhanga
4. Nazir District Court, Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binodanand Mishra, Adv Mr. Ravindra Kumar @ Ravindra Kr Rai Ms Shafiya Sanaz Ghani, Adv
For the Respondent/s	:	Mr. Prashant Pratap (Gp2) Mr. Asit Kumar Jha, AC to GP 2
For the High Court	:	Mr. Sanjeev Kumar

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 02-01-2024

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This application is filed for directing the respondent to
re-instate the petitioner to the Post of Class IV (Peon) of
Darbhanga Judgeship, quashing the impugned order of
termination contained in Memo No. 3086/91,G, dated
17.09.2014 (Annexure-4) passed by the Respondent No. 2 and
decision of the Standing Committee of the High Court, dated
06.12.2016.



3. Counsel for the petitioner submits that the Advertisement No. 1/2014 for appointment of Class-IV in the Judgeship of Darbhanga, was published in the daily newspaper in Dainik Jagran on 03.02.2014.

4. Counsel further submits that petitioner has applied the form on the prescribed time and admit card was issued bearing Roll No. 3412. The petitioner appeared before the selection Board and after interview, appointment letter was issued to him on 05.09.2014 according to which petitioner has to join within 30 days.

5. Counsel submits that in the said letter, he was instructed to provide some documents at the time of joining which he has provided and upon joining he was allowed to discharge his duties.

6. Counsel submits that the petitioner has received a termination letter vide memo no. 3086-91 dated 17.09.2014 of the allegation that the petitioner has stated in his affidavit dated 09.09.2014 that there is no criminal case pending against him and he remained absent from 15.09.2014 to 17.09.2014 without any information or application.

7. Counsel submits that the order of termination from service has been issued in most technical manner and in



complete violation of natural justice. Counsel further submits that at the time of filing the application, no case was pending against him. Counsel submits that petitioner has taken leave from 15.09.2014 to 17.09.2014 before the Nazir, Darbhanga and after filing leave application, he was absent.

8. Counsel submits that he has not committed any mistake deliberately. Counsel further submits that against the said removal order, petitioner has moved before this Hon'ble High Court in C.W.J.C. No. 15393 of 2015, but the said petition was withdrawn vide order dated 01.10.2015, and thereafter, petitioner has preferred appeal before the District Judge, Darbhanga and without giving opportunity of personal hearing before the District Judge, Darbhanga or Standing Committee, his appeal was dismissed in meeting dated 06.12.2016. Counsel submits that petitioner has filed an application under Right to Information Act, 2005 in which he got information that his appeal was dismissed.

9. Counsel for the petitioner submits that petitioner is never at fault because at the time of filing of application form, no criminal case was pending against him, but at subsequent time, there was a criminal case filed against him on 06.06.2014 in which no demand was made in his appointment letter rather



appointment letter has been made seeking an information that whether he has been convicted in any matter or not; and on the date of filing affidavit, he was neither convicted in any case nor he was dismissed from government service.

10. Counsel for the petitioner further relied on Judgment of Supreme Court in the Case of ***Pawan Kumar Vs. Union of India AIR 2022 SC 2829***. in which the case of the petitioner is not within the preview of the suppression as in paragraph 12 of the Judgment one sub-paragraph 38.10 discussed as follows;-

“For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression of submitting false information as to a fact which was not even asked for.”

11. Counsel further relied on Paragraph 13 which states as follows:

“13. What emerges from the exposition as laid down by this Court is that by mere suppression of material/false information regardless of the fact whether there is a conviction of acquittal has been recorded, the employee/recruit is not to be discharged/terminated axiomatically from service just by a stroke of pen. At the same time, the effect of suppression of material/false information involving in a criminal case, if any, is left for the employer to consider all the relevant facts and circumstances available as to antecedents and keeping in view the objective criteria and the relevant service rules into consideration, while taking appropriate decision regarding continuance/suitability of the employee into service. What being noticed by this Court is that mere suppression of material/false information in a given case



does not mean that the employer can arbitrarily discharge/terminate the employee from service."

12. Counsel for the petitioner submits that this is not the case of providing false information, therefore, removal of service is bad in law. Counsel also submits that in the said case on the basis of which he was terminated from service, he has been already acquitted and this aspect has not been taken into consideration.

13. Counsel for the Patna High Court on the other hand submits that in the order passed by District Judge, Darbhanga dated 17.09.2014 (Annexure-4) of the present petition, it is clearly mentioned that the petitioner has submitted his joining on 09.09.2014 with false affidavit and with his joining he has stated that there is no criminal case pending against him, but the truth is otherwise, as criminal case bearing Hasanpur (Samastipur) P.S. Case No. 73 of 2014 dated 06.06.2014 under Section 341, 323, 307, 379, 504, 506, 34 of the Indian Penal Code was pending against him and in the said case, he moved for anticipatory bail on 07.08.2014 in A.B.P. No. 2682 of 2014. As such, on the date of moving for an anticipatory bail on 07.08.2014, the petitioner has knowledge that there is criminal case pending against him, but in the affidavit dated 09.09.2014 this fact was not disclosed. The another plea has been taken that he was absent from 15.09.2014 to 17.09.2014 without any



information or an application and only due to this reason, petitioner has been removed from the service on the ground that he has providing false information and was absent from his duty from 15.09.2014 to 17.09.2014 without any information.

14. Counsel for the High Court further submits that the petitioner has preferred appeal and the order passed by the District Judge, Darbhanga has been affirmed in the appeal also.

15. Upon perusal of the documents and hearing the arguments, it transpires to this Court that it is true that on the date of filing the application, there was no criminal case pending against the petitioner, but it is also true that on the date of filing of the affidavit with regard to his joining on 09.09.2014, there was criminal case pending against him and about the said criminal case, petitioner was well aware as he has filed anticipatory bail in the month of August, 2014 itself.

16. The petitioner is taking the plea that in the joining letter, no information with regard to pendency of criminal case has been sought for, rather it has been sought for, whether he has been convicted in criminal case or not, and therefore, it does not amount to suppression.

17. In the view of this Court, the question of conviction of in any criminal matter shall only arise when there is pending



criminal case and if there is criminal case pending then in the opinion of this Court, the petitioner is supposed to disclose the correct information, but he intentionally failed to do so.

18. The situation of the present case does not cover the situation of the case discussed in *Pawan Kumar Vs. Union of Indian And Anrs. (Supra)*. As in the present case, the criminal case was pending, but the candidate at the time of filing the form or even at the time of joining was completely unaware about the same, whereas in the present case, the petitioner is well aware at the time of joining that he has one criminal case pending against him, and hence, this Court is of the view that the basic violation of the conditions made in the joining has been made and therefore, the petitioner has no case.

19. Accordingly, this writ petition stands dismissed.

(Dr. Anshuman, J)

Sunnykr/-

AFR/NAFR	
Uploading Date	
Transmission Date	

