

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8679 of 2023

Amir Kumar Rai Son of Shri Gulab Chand Rai Resident of Village - Sonpur
Adam, P.O. and P.S.- Sonpur, District- Saran (Bihar).

... .. Petitioner/s

Versus

1. The Employees State Insurance Corporation through the Director General, Employees State Insurance Corporation, Panchdeep Bhawan, CIG Road, New Delhi-110002.
2. The Joint Director (Recruitment), Employees State Insurance Corporation, Panchdeep Bhawan, CIG Road, New Delhi-110002.
3. The Additional Commissioner and the Regional Director, Employees State Insurance Corporation, Regional Office, Panchdeep Bhawan, Ashram Road, Ahmadabad (Gujarat)-380014.
4. The Regional Director, Employees State Insurance Corporation, Regional Office, Panchadeep Bhawan, Ashram Road, Ahmadabad (Gujarat)-380014.
5. The Deputy Director, Employees State Insurance Corporation, Regional Officer, Panchadeep Bhawan, Ashram Road, Ahmadabad (Gujarat)-380014.
6. The Joint Director I/C, Employees State Insurance Corporation, Sub-Regional Office, ESI Hospital Campus, Civil Char Rasta, Surat (Gujarat) 395001.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

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

6 19-02-2024 In the instant petition, petitioner has assailed the order of Central Administration Tribunal, Patna Bench, Patna (for short 'CAT') passed in O.A No.050/00675 of 2018 dated 01.08.2019.

2. Identical matter was subject matter of litigation in CWJC No. 23977 of 2019 and connected matter it was allowed



on 06.02.2023. Feeling aggrieved by the order dated 06.02.2023 passed in CWJC No. 23977 of 2019 respondent the Employees State Insurance Corporation and Ors. preferred Special Leave Petition (Civil) Diary No. 23895 of 2023 and suffered an order on 24.07.2023. Thus, learned counsel for the petitioner submitted that matter is covered by the aforementioned decisions. Learned counsel for the Employees State Insurance Corporation and Ors.- Respondent despite the aforementioned facts of the case he tried to re-argue the matter with reference to the terms and conditions imposed at the initial selection and appointment of petitioner for the post of MTS to the extent that such appointment was unconditionally accepted by the respective appointees. Therefore, this point was not addressed in the earlier litigations cited supra and it is required to be adjudicated in the present proceedings.

3. It is necessary to take note of few dates and events, petitioner was appointed on 02.08.2012 to the post of Multi Task Staff (MTS) and he was on probation. Probation period was declared w.e.f. 28.02.2016 from retrospective effect namely w.e.f. 02.08.2014. Thereafter, petitioner has earned promotion to the post of Lower Division Clerk (LDC) on 28.10.2016. In this backdrop, termination order was issued on 31.07.2018 to the



extent that there are certain alleged irregularities in the selection and appointment to the post of (MTS). In the light of these dates and events whatever the conditions imposed for the post of MTS stood wiped out for the reasons that petitioner's probation period has been declared as a satisfactory. Thereafter, he has earned promotion to the post of LDC, therefore, whatever the condition imposed in the order of initial appointment to the post of MTS would not hold good, in view of subsequent to declaration of probation and so also earning promotion to the next higher post namely LDC.

4. Learned counsel for the respondents reiterated that there are certain irregularities and initial appointment itself is void. Such alleged irregularities should have been taken note of in the year 2012. There is gap of about six years. During the intervening period from 2012 to 2018 the probation period has been declared as satisfactory w.e.f. 02.08.2014 on 28.01.2016 read with the fact that petitioner has been promoted to the post on 28.10.2016. In the light of these facts and circumstances, the officials respondents have not made out any fresh case so as to confirm the order of the CAT dated 01.08.2019 passed in CWJC No. 050/00675 of 2018.

5. Accordingly, the present petition stands allowed



while quashing the impugned order dated 01.08.2019 passed in Original Application No. 050/00675 of 2018 and the same is allowed. Consequently, the present writ petition is allowed in terms of order passed in the case of **The Employee State Insurance Corporation and Ors. Vs. Shailendra Kumar Choudhary and Anr. in Special Leave Petition (Civil) Diary No. 23895/2023 dated 24.07.2023** all necessary consequential service and monetary benefits shall be made available to the petitioner in the light of Mr. Shailendra Kumar decision within a period of three months from the date of receipt of this order, liberty is reserved to initiate disciplinary proceedings if it is warranted at this belated stage.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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