

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.703 of 2019
In
Civil Writ Jurisdiction Case No.6974 of 2019

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Manoj Kumar Yadav S/o Late Suraj Narayan Yadav Resident of Village-
Narar East, P.O.- NararWest, P.S.- Kalawahi, District- Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar through the District Magistrate, Madhubani
2. The District Magistrate Madhubani
3. The Superintendent of Police Madhubani

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Bipin Bihari Singh, Advocate

For the Respondent/s : Mr. Prabhat Kumar Verma, A.A.G.-3

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL ORDER

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

9 21-08-2024 The appellant has assailed the order of the learned

Single Judge dated 26.04.2019 passed in C.W.J.C. No. 6974 of

2019.

2. The limited issue was whether appellant's father

late Surya Narayan Yadav while he was in service, he had

submitted application for Voluntary Retirement on 29.01.2015

in the guise of providing employment to his son-appellant

Manoj Kumar Yadav in the light of policy decision of the State

Government in providing employment to such of those

officials/employees who are in service and if he/she take

Voluntary Retirement with a certain conditions including

appointment to his/her son/daughter. Such Voluntary Retirement

application was submitted on 29.01.2015, it was neither



accepted nor rejected ultimately, appellant has been denied appointment under the relevant policy. Thereafter, one more reminder was sent on 24.11.2015 by his father with a request to consider his V.R.S. application. Respondents have rejected subsequent V.R.S. application dated 24.11.2015 in the guise of the fact that appellant's father in the normal course would have attained the age superannuation and retired from service on 31.12.2015. Due to inaction on the part of the official respondent in not either accepting or rejecting the appellant's father application for V.R.S. dated 29.01.2015 resulted in denial of appointment to the Appellant - Manoj Kumar Yadav, son of the deceased, late Surya Narayan Yadav.

3. On 01.08.2024, we have passed the following order:-

“01.07.2024, the following order was passed:-

The appellant is stated to have submitted application for voluntary retirement in the guise of securing appointment to his son on 29.01.2015. Since there was in action on the part of the respondent he has



proceeded to submit one more application on 24.11.2015. Taking note of the second application dated 24.11.2015 read with the fact that he was due for normal retirement on 31.12.2015. The concerned respondent is stated to have proceeded to reject the appellant's claim. From the perusal of the records it is evident that action of the respondent in respect of application dated 29.01.2015 filed on behalf of the appellant for voluntary retirement is silent. Therefore, the concerned authority is hereby directed to file counter affidavit on this issue, since the same was not examined by the learned single judge while passing order on 26.06.2019 in C.W.J.C. No. 6974 of 2019.

2. Re-list this



matter on 15.07.2024.

2. Counter affidavit on behalf of respondent no. 2 has been filed on 12.07.2024. Para 5 of counter affidavit reads as under:-

5. That it is necessary to bring in to the notice of the Hon'ble Court that the father of the appellant filed application dated 29.01.2015 in the Janta Darbar of District Magistrate, Madhubani claiming voluntary retirement and appointment of his son in his place but the said application was completely vague and the father of the appellant was failed to disclose the date of his retirement in said application, moreover, father of the appellant thereafter continued to receive salary and thereby relinquished his claim as such the application



submitted by the father of the appellant for voluntary retirement and appointment of his son in his place rendered infructuous.

Para 5 is not supported by the material evidence to the extent that grievance of the appellant has been turned down at the earliest point of time. Therefore, we have to draw inference that whatever the statement made in para 5 is only an afterthought and to overcome orders of this court. Accordingly, counter affidavit in para 5 stands rejected.

3. Respondents are given one more chance to produce necessary document insofar as rejection of petitioner's application dated 29.01.2015 before the next date of hearing. If they fail to produce, we will pass orders on merit.

4. Re-list this matter on 19.08.2024."

4. Today, supplementary counter affidavit has been filed on behalf of the respondent no. 2 along with Annexure-A to F. Perusal of the same, they have not produced any material to show that appellant's father's application for Voluntary Retirement dated 29.01.2015 was rejected, on the other hand, in



paragraph-5, it stated as under :-

“That the answering respondent begs to submit that in the Counter Affidavit filed on behalf of respondent no.2 it has been mentioned that the father of the appellant filed application dated 29.01.2015 in the Janta Darbar of District Magistrate, Madhubani claiming voluntary retirement and appointment of his son in his place but the said application was completely vague and the father of the appellant was failed to disclose the proposed date of his voluntary retirement in the said application, moreover, father of the appellant thereafter continued to receive salary till the date of his retirement and hereby relinquished his claim as such the application submitted by the father of the appellant for voluntary retirement and appointment of his son in his place rendered infructuous.”

5. From the perusal of the records, it is evident that there is inaction on the part of the official respondent in not either accepting or rejecting the appellant's father's V.R.S. application dated 29.01.2015 resulted in denial of appointment to Manoj Kumar Yadav- appellant.

6. Be that as it may, appellant's father Late Surya



Narayan Yadav continued in service till 31.12.2015 with reference to normal date of retirement.

7. Having regard to the fact that there was inaction on the part of the official respondent in not acting on the appellant's father's application for V.R.S. dated 29.01.2015 read with policy and they are pursuing the matter before this Court for the last about five years. The appellant has made out a case only for the purpose of imposing litigation cost. The litigation cost is quantified Rs. 50,000/-, the cost shall be paid to the appellant within a period of three months from the date of receipt of this order. The concerned authority is hereby requested to examine the records who are all responsible in not either accepting or rejecting the V.R.S. application of the appellant's father dated 29.01.2015 then take such disciplinary action and recover the cost amount from such of those erring officials, within a period of six months from the date of receipt of this order, after due process of law.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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