

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8337 of 2018

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Anuj Mishra Son of Sri Om Prakash Mishra, Resident of House No.- 10/6
Ganga Bhawan, Daraganj, Allahabad, Uttar Pradesh, Pin Code- 211066.

... .. Petitioner/s

Versus

1. The High Court Of Judicature At Patna Through The Registrar General of the Patna High Court, Patna.
2. The Registrar General of the Patna High Court, Patna.
3. The District and Sessions Judge, Kaimur at Bhabhua.
4. The Administration In-charge of the Civil Court, Bhabhua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Mishra, Advocate
For the Respondent/s : Mr. Sanjeev Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 07-08-2025

Heard learned Counsel for the petitioner and learned Counsel for the respondents (Patna High Court through the Registrar General).

2. The present writ petition has been filed for quashing of Order No.20/2018 dated 21.02.2018, contained in Memo No.169 dated 21.02.2018, passed by the District & Sessions Judge, Kaimur at Bhabhua, by which the petitioner was restrained from marking attendance as Class-IV employee of Civil Court, Bhabhua. Further prayer has been made to stay Order No.20/2018 dated 21.02.2018 mentioned above.

3. Learned counsel for the petitioner submits that the



petitioner had applied in response to Advertisement No. 01/2016, which was published for the recruitment of 40 Class-IV posts under the judgeship of Kaimur at Bhabhua. Counsel submits that admit card was issued bearing Roll No.1006788 and the date of interview was fixed on 08.03.2017 at 10:00 AM. Counsel submits that the petitioner appeared in the said interview and finally his result came being a successful candidate in the interview, on 26.05.2017 after getting approval from the Hon'ble Patna High Court, total 40 candidates were declared successful including the petitioner. As such, appointment letter was issued to the petitioner *vide* Db No.753 dated 02.06.2017 by the District & Sessions Judge, Kaimur at Bhabhua with a direction to join on or before 01.07.2017 with certain documents and certificates. Counsel submits that the joining of all the selected candidates except petitioner was accepted by the concerned authorities of the Civil Court and no reason was assigned for non-acceptance of petitioner's joining by the authorities. Counsel submits that subsequently, joining of the petitioner was accepted on 23.01.2018 and he started discharging his duty to the satisfaction of all concerned. Counsel further submits that all of a sudden *vide* Order No.20/2018 dated 21.02.2018 contained in Memo No.169 dated 21.02.2018, i.e.,



impugned order, the petitioner was restrained from marking his attendance as Class-IV employee of the Civil Court, Kaimur at Bhabhua. Counsel submits that C.W.J.C No.14136 of 2017 is related with the ongoing selection process of Class-IV employees. However, the result of Bhabhua district has already been published on 26.05.2017 and all the selected candidates were permitted to join duty and they were discharging their duties. But, the petitioner has been discriminated on non-est grounds.

4. Learned Counsel for the petitioner further submits that the petitioner has already filed a representation before respondent no.3 on 27.02.2017, but till date no action has been taken. Counsel submits that the petitioner has filed another representation on 21.03.2018 for recalling of Order No.20/2018 dated 21.02.2018 before respondent No.3, but till date no action has been taken. Thereafter, petitioner has challenged the said order before this Hon'ble Court and filed the present writ petition.

5. Learned Counsel appearing on behalf of the Patna High Court submits that it is true that the petitioner was selected on the said post and joining letter was issued. But in the appointment process, one of the member of the Appointment



Committee has violated Rule 6(ii) of the Bihar Civil Court Staff (Class III and Class IV) Rules, 2009 and Rule 3 of the Bihar Government Servant's Conduct Rules, 1976. It has been alleged that intentionally he has misused his power and position by permitting a candidate, who happens to be his relative to join as Class-IV staff in Civil Court, Kaimur at Bhabhua, despite the contrary report dated 23.01.2018 of the District Judge *sheristedar*. It has also been mentioned that the said appointment is in violation of judicial discipline and also in violation of order dated 16.10.2017, passed by this Hon'ble Court in the C.W.J.C No.14136 of 2017. It has been further stated by the Counsel that the matter of the petitioner was referred before the Hon'ble Standing Committee for consideration, but in the meantime, the said relative of the petitioner has accepted his joining and permitted him to mark attendance. It has been submitted that for this wrong done by the said Judicial Officer, a departmental proceeding was initiated against the said Judicial Officer, in which charge Nos. (i) to (iii) had been proved and he was imposed punishment of withholding of 20% of the pension amount permanently of the delinquent officer. It is due to this reason, learned counsel appearing for the Patna High Court through the Registrar



General submits that the decision not to join the petitioner had been taken in accordance with the Hon'ble Division Bench's decision as well as the findings recorded by the Court.

6. After hearing the parties and upon perusal of the documents, it is necessary to quote the relevant rules/provisions as discussed above. Rule 6(ii) of the Bihar Civil Court Staff (Class III and Class IV) Rules, 2009 reads as follows:-

“6(ii) Constitution of Appointment Committee- In each district there shall be an Appointment Committee, comprising of the District Judge and two senior-most Additional District Judges in the Judgeships. In case however, it comes to the knowledge that any one of the candidates is a relation of any of the members of such Committee and/or for any other reason, if any of the Members of the Committee is unable to participate, in that event the next senior most Judicial Officer available in the Judgeship shall be included in the Committee. It is however, made clear that irregularity in the constitution of such committee shall not invalidate any appointment or any other action taken by such Committee on that ground alone.”

Rule 3 of the Bihar Government Servant's Conduct Rules, 1976 reads as follows:-



“3. General. (1) Every Government servant shall at all times-

(i) maintain absolute integrity;

(ii) maintain devotion to duty; and

(iii) do nothing which is unbecoming of a Government servant.

(2) Every Government servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government servants for the time being under his control and authority.

(3) No Government servant shall, in the performance of his official duties or in the exercise of power conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior and shall; where he is acting under such direction, obtain the direction in writing wherever practicable, and where it is not practicable to obtain the direction in writing he shall obtain written confirmation of the direction as soon thereafter as possible.”

7. Here in the present case, admittedly, the appointment letter was issued to the petitioner on 02.06.2017 by the District & Sessions Judge, Kaimur at Bhabhua, with a direction to join on or before 01.07.2017 i.e., prior to the decision taken in the case of Bihar Yuva Adhiwakta Kalyan Samitee, Patna, which was finally disposed of vide order dated



17.04.2018 passed in CWJC No.14136 of 2017 in which it has been clearly held that process of selection which has been made under old Rule prior to 12.09.2017 but after consideration of the Standing Committee dated 12.09.2017 onward, no order for appointment was issued nor the candidate join on the appointed post.

8. Here in the present case, the appointment letter was issued on 02.06.2017, joining was accepted on 23.01.2018, but petitioner was restrained from marking his attendance vide order dated 21.02.2018. Therefore, the order passed by the Hon'ble Division Bench in CWJC No.14136 of 2017 shall not create any bar for the petitioner. So far as Rule 6(ii) of the Bihar Civil Court Staff (Class-III and Class-IV) Rules, 2009 is concerned, it clarifies that irregularity in the constitution of such Committee as like that in case of petitioner shall not invalidate any appointment or any other action taken by such Committee on that ground alone. Therefore, due to this reason the appointment of the petitioner shall not be invalidated in compliance of Rule 6(ii) of the Bihar Civil Court Staff (Class-III and Class-IV) Rules, 2009.

9. On the other hand, the order restraining the petitioner from marking attendance, contained in Memo No. 169



dated 21.02.2018 (impugned Order No.20/2018 dated 21.02.2018) has been passed without giving any opportunity to the petitioner. It is due to this reason that this order has been passed in gross violation of Rule 6(ii) of the Bihar Civil Court Staff (Class-III and Class-IV) Rules, 2009 and, hence, the impugned order is hereby set aside. The matter is remitted back to respondent No.4 and the said respondent is hereby directed to take a decision afresh, in consultation with respondent No.3, with regard to the petitioner and till taking final decision, it is directed to accept the joining of the petitioner.

10. The District & Sessions Judge, Kaimur at Bhabhua, is directed to permit the petitioner to mark attendance as Class-IV employee of Civil Court, Bhabhua, from the date of receipt/production of a copy of this order and take work from him in pursuance of appointment letter and prior to taking any decision afresh, opportunity of hearing shall be provided to the petitioner.

11. With this direction, this writ petition is allowed.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2025
Transmission Date	

