
(2004) 04 PAT CK 0042
In the Patna High Court
Case No : C.W.J.C. No. 12082 of 2000

Binod Kumar Chaudhary

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 27-04-2004

Acts Referred:

Citation : (2004) 3 PLJR 396

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Narendra Prasad, Ashok Kumar Sinha and Shyamendra Kumar, for the Appellant; A.B. Sinha, for State, for the Respondent

Final Decision : Dismissed

Judgement

Narayan Roy, J.—Heard counsel for the parties.

2. The Petitioner has prayed for issuance of direction upon the Respondents to regularly appoint him to the post of Class III or Treasure Guard, as earlier directed by this Court in C.W.J.C. No. 2959 of 1995.

3. It is submitted by learned Counsel for the Petitioner that when the claim of the Petitioner for his regularisation was rejected by the authorities concerned, the Petitioner approached this Court in C.W.J.C. No. 2959 of 1995 and this Court vide order, as contained in Annexure-2, directed the authorities concerned to consider the case of the Petitioner afresh for giving further employment in the light of the observations made in the order expeditiously and preferably within a period of two months from the date of receipt/production of a copy of that order. It is further submitted that since the direction of this Court, as referred to above, was not carried out, the Petitioner came to this Court for initiation of a contempt proceeding against the authorities in M.J.C. No. 1782 of 1996 and at the time of hearing of the contempt application, materials were brought on record by the opposite parties to show that the case of the Petitioner has already been considered for regular appointment and he has already been appointed on the

post of Chowkidar.

4. In view of this fact, this Court disposed of the contempt application with a liberty to the Petitioner that in case he would not be satisfied with the order of appointment on the post of Chowkidar, he may approach the appropriate authority/court of law in this respect and consequently thereof, this writ application has been filed.

5. A counter affidavit has been tiled on behalf of the State stating therein that during the pendency of this application, the Petitioner has been appointed to the post of Treasure Guard vide memo No. 13 dated 19.1.2001, as contained in Annexure-A to the counter affidavit. Learned Counsel for the State, in the light of the statement made in the counter affidavit, submitted that the grievances of the Petitioner have, been satisfied, and, therefore, this application has become infructuous.

6. Learned Counsel for the Petitioner, on the contrary, submitted that the Petitioner could have been appointed on the post of Treasure Guard in terms of the order passed by this Court, as contained in Annexure-2, and, thus, the authorities were required to reckon the appointment of the Petitioner with retrospective effect. Learned, counsel further submitted that the direction of this Court, as contained in annexure 2, virtually has been flouted and the order of regularisation could have been issued strictly in terms of the order passed by this Court for maintaining the seniority of the Petitioner. Learned Counsel also submitted that by not doing so, the case of the Petitioner has been prejudiced. In this connection, learned Counsel relied upon a decision of the Supreme Court, as contained in annexure 8, and also an order passed by this Court in Gorelal Singh and Others Vs. State of Bihar and Others, .

7. It is admitted fact that during the pendency of this writ application, the Petitioner has been appointed on the post of Treasure Guard vide notification, as contained in annexure A to the counter affidavit dated 19.1.2001. It is also admitted fact that for non-compliance of the earlier direction of this Court, as contained in Annexure 2, no action was taken by this Court in contempt application. However, a liberty was given to the Petitioner to challenge the matter before the appropriate forum in accordance with law. In view of the subsequent development, whereby and where-under the Petitioner has been appointed as Treasure Guard, earlier order passed by this Court stands complied.

8. In this view of the matter, the grievance of the Petitioner, therefore, must be held to be wholly misconceived to reckon his appointment with retrospective date.

9. The cases relied upon by the Petitioner do not appear to be pertaining to the issue involved in this case and the facts re not identical, and, therefore, the judgment aforementioned do not apply in the facts and circumstances of the case strictures.

10. For the reasons aforementioned, do not find any merit in this application.

11. It is, accordingly, dismissed.

12. No order as to costs.