

(2007) 09 PAT CK 0049
In the Patna High Court
Case No : CWJC No. 3059 of 2000

Sunil Kumar Singh

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 17-09-2007

Acts Referred:

Citation : (2008) 1 PLJR 198

Hon'ble Judges : Narayan Roy, J; Madhavendra Saran, J

Bench : Division Bench

Advocate : Pushkar Narain Shahi and Nishant Choudhary, for the Appellant;
Sarvadeo Singh for Union of India and Mr. Bipin Bihari Singh, for the Respondent

Judgement

1. Heard counsel for the parties. This matter has come up before this Court for consideration on remand by the Apex Court.

2. Short facts giving rise to this application are as follows:

The petitioner had applied for the post of EDBPM in the District of Muzaffarpur on 18.8.1993. Interview was held on 27.9.1993 and appointment was made on 12.10.1993. Immediately after his appointment he was made an accused in a criminal case on the basis of the first information report lodged on 15.10.1993. On account of pendency of the criminal case respondent No. 6 moved the Central Administrative Tribunal (hereinafter to be referred to as "CAT") for direction to appoint him in place of the petitioner. The matter was heard in the CAT and a direction was issued to cancel the appointment of this petitioner and appoint a suitable candidate. The matter, however, was heard in absence of the petitioner, as he had not appeared before the CAT. The petitioner, thereafter, approached this Court in writ jurisdiction challenging the order of the CAT. The writ application, however, was dismissed holding that in view of the involvement of the petitioner in a criminal case, the appointment of the petitioner was rightly cancelled, as it would amount to criminalisation of the office. The matter, ultimately, was taken to the Supreme Court in Civil Appeal No. 13 of 2005, which

was disposed of by the Apex Court remitting back the matter to the High Court.

3. The Apex Court while considering the case of the petitioner held that since criminal case was lodged after appointment of the writ petitioner on the post aforesaid and the criminal case since ended in acquittal, the High Court could have considered the matter keeping in view this aspect of the matter and held the petitioner not at all liable for any criminal action. The fact remains that before the writ application was dismissed by this Court the petitioner was acquitted of the criminal charges, where the case was found to be false.

4. This Court in view of the order of the Supreme Court wanted to know from the respondent authorities as to the prospective vacancies.

5. Today an affidavit has been filed on behalf of the Department stating therein that altogether there posts of Gramin Dak Sewak Delivery Agent-cum-Mail Carrier are available in the District of Muzaffarpur, but since there is no provision in the Department to provide alternative appointment to any candidate and to fill up the posts aforesaid a fresh procedure is to be adopted.

6. From today's affidavit, it is manifestly clear that there posts of Gram Dak Sewak Delivery Agent-cum-Mail Carrier are vacant in the District of Muzaffarpur.

7. The petitioner since was made victim of the circumstances after his appointment, in our opinion, he should be accommodated as against either of the vacancies, as referred to above.

8. Accordingly, we direct the respondent authorities to appoint the petitioner on the post of Gramin Dak Sewak Delivery Agent-cum-Mail Carrier in either of the places forthwith on the basis of his earlier consideration for the posts aforesaid.

9. With the direction/observation aforesaid, this application is disposed of. Personal appearance of the Superintendent of Post Offices, Muzaffarpur is dispensed with.