
(2017) 02 PAT CK 0035

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 11956 of 2016

Sunita Kumari

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 27-02-2017

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 2 BLJud 119

Hon'ble Judges : Mr. Ajay Kumar Tripathi and Smt. Nilu Agrawal, JJ.

Bench : Division Bench

Advocate : Mr. Arvind Kumar and Mr. Ajay Kumar Singh, Advocates, for the Petitioner; Mr. Awadesh Kumar Pandey, SCGC and Mr. Ravinder Kumar Sharma, CGC, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Ajay Kumar Tripathi, J.—O.A. No. 727 of 2012 was filed before the Central Administrative Tribunal, Patna Bench, Patna for quashing of Annexure-9 to the writ application. By virtue of Annexure-9, the Superintendent of Post Offices, Siwan Division, vide order dated 24.08.2012, issued the order of cancellation of service of the petitioner from the post of Gramin Dak Sewak Branch Postmaster (GDSBPM), Bangra in the Maharajganj Sub-Post Office. Petitioner sought quashing of the said Annexure in the said OA, which the Tribunal has refused to do and rejected the OA, and, therefore, the writ application.

2. It was the case of the petitioner before the Tribunal as well as before this Court that after following due procedure she was appointed/engaged to work as such on the direction of one Sri Bhola Ram, the Superintendent of Post-Offices, Siwan Division vide so called letter dated 10.08.2009. She worked for almost three years and without following the law and the procedure her engagement and hiring was terminated vide Annexure-9.

3. The OA was hotly contested on behalf of the Postal Department of the Union of India. Their stand before the Tribunal was that the claim of appointment of the petitioner on the post is a hoax and false averment. No procedure was followed for such appointment. In fact, the issue came to light when one Guddi Kumari filed a complaint against the so called engagement of the petitioner on the post since she was an applicant against the advertisement issued for filling up of the post on the retirement of the permanent incumbent on 28.02.2009.

4. From reading of the order of the Tribunal, it seems that even the original file and record was called for. None of the documents, which have been used as Annexures to the OA showing appointment, engagement etc. was available on record. There was huge gaping holes with regard to so called selection and appointment and it seems that the case of appointment was a case of a fake or a false appointment and that was the reason for the Tribunal to refuse to interfere with the decision contained in Annexure-9.

5. Even before the Writ Court, the same documents have been brought on record in support of the claim. If those documents are held to be not authentic in nature and the records of the respondent Union of India does not support the statement of the petitioner having been duly selected and appointed by the erstwhile Superintendent of Post-Offices, Siwan then the Court was willing to re-examine the matter even at this stage, but in absence of anything new having been brought on record, obviously, the petitioner had been taken for a ride by the then Superintendent of Post-Offices, namely, Sri Bhola Ram, who is no longer in service and has superannuated.

6. The respondents, therefore, cannot be compelled to carry on with the engagement of the petitioner if they are not the ones, who have hired her or engaged her. If a fraud was played by an individual and the petitioner was the beneficiary of such fraud then she cannot derive the benefit thereof by asking the Court to direct the authorities to continue with her engagement or hiring.

7. In fact, it is in this background that the word "cancel" has been used for getting rid of the services of the petitioner, namely, Sunita Kumari instead of the expression removal, dismissal etc.

8. The Tribunal's decision in the above factual background cannot be said to be bad in law. The writ application, therefore, is required to be dismissed and no relief can be granted to the petitioner in the controversial circumstances as above.

9. Writ dismissed.