

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20841 of 2013

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Ajay Kumar, son of Shri Ram Balak Das, resident of village - Kaima, P.S. Shaksohara, District – Patna, at present residing at Tak Narayan Lane Bhawan, Karbigahia, P.S. Jakkanpur, District – Patna.

.... Petitioner

Versus

1. The Union of India through Director General, Doordarshan (Government of India), Mandi House, New Delhi - 110001
2. The Chief Executive Officer, Prasar Bharti (BCT), Prasar Bharati Secretariat, PTI Building, II Floor, Sansad Marg, New Delhi - 110001
3. The Director General, Doordarshan (Govt. of India), Mandi House, New Delhi - 110001
4. The Deputy Director (Adm.), Doordarshan Mandi House, New Delhi - 110001
5. The Director, Doordarshan Kendra, Patna
6. The Senior Administrative Officer, Doordarshan Kendra, Patna - 1
7. Shri Arvind Ram, son of Sri Dillu Ram resident of village - Gonsasri, District - Tehri Garval, U.P. At Present Posted Sri Arvind Ram, Cameraman, Gr.III At Doordarshan Kendra, Delhi, Doordarshan Bhawan, Phase - II, New Delhi – 110001.

.... Respondents

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Appearance :

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| For the Petitioner | : | Mr. Gautam Bose, Sr. Advocate Mr. Rohit Mishra, Advocate |
| For the Respondents | : | Mr. Rajesh Kumar Verma, (C.G.C.) |

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA


ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 30-06-2015

Heard learned counsel for the petitioner and
learned counsel for the respondents.


The petitioner challenges the order of Central



Administrative Tribunal, Patna Bench, Patna, dated 6th September, 2013 passed in O.A. No. 620 of 2009 and M.A. No. 311 of 2009, wherein petitioner challenged the appointment of respondent no. 7 which was not entertained. Not only the Tribunal dismissed the application but also imposed heavy exemplary cost of Rs. 5000/- (five thousand only) to be used for library development.

The first thing we may note is and what we have often repeated, we have failed to find any provision authorizing the Central Administrative Tribunal (hereinafter referred to as “Tribunal”) to award punitive or exemplary cost. Awarding cost is not a power ancillary to the power of adjudication. Such orders are wholly without jurisdiction. At the very outset, we set aside the order of the Tribunal in so far as it relates to cost.

Now coming to the merit, we may note that though the Tribunal was right in not interfering, it gave wrong reasons. It relied on the principles of resjudicata which has no application. Resjudicata, as understood, means the issue adjudicated upon between the two parties and which is sought to be raised again. Here, pursuant to vacancy available, respondent no. 7 and petitioner applied for as far back as in



1997. From 1997, petitioner had been protesting that respondent no. 7 was wrongly being paid and was wrongly selected. On 11.12.2003, a decision was taken to appoint respondent no. 7. In the year 2009, the present O.A. was filed before the Tribunal challenging this decision of the year 2003. Whereas the petitioner was fully aware that respondent no. 7 had already been appointed. The appointment letter was dated 23.01.2004, which subsequently petitioner had tried to challenge which the Tribunal refused as he ought to have challenged the same at the very first instance.

Be that as it may, having considered the sequence of events, as noted above, it is apparent that the first attempt to challenge was made by the petitioner in the year 1999 without success. Then a decision to appoint was taken in the year 2003 and appointment letter was issued in the year 2004 but the petitioner made challenge for the first time now in the year 2009 since respondent no. 7 has already been working for five years.

In view of these facts, we are not inclined to interfere. However, learned counsel for the petitioner states that respondent no. 7, after his appointment, has been transferred to Delhi. As such, the post for which the entire

fight was going on is vacant where petitioner can be adjusted subject to eligibility.

In our view, that not being the subject matter before the Central Administrative Tribunal, we would not like to comment upon but to leave it to the authority to take decision in that regard.

With the above observation, this application stands disposed of.

(Navaniti Prasad Singh, J.)

(Rajendra Kumar Mishra, J.)

Rajeev/N.A.F.R.

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