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IN THE HIGH COURT OF JUDICATURE AT PATNA

C.W.J.C. No.4066 of 1999

Nand Lal Kumar Vs. State of Bihar & Ors.

2. 11.3.2004.

The petitioner and many others filed applications pursuant to the advertisement issued by the Bihar Public Service Commission in the year 1994 for appointment on different posts mentioned in the advertisement. The petitioner appeared in the test examination and was declared successful. A select list was also prepared and the same was sent to the government for appointment, annexure 4. The petitioner's name was recommended for appointment to the post of Extension Officer, in the Rural Development Department. However, the respondents/authority concerned appointed him to the post of Extension Officer in the District Rural Development Agency. According to the petitioner the District Rural Development Agency is not a government office. It is an agency and its employee is not a government servant. He says that since the advertisement was made for appointment in the government office, he cannot be forced to join in the the District Rural Development Agency which is not a government department.

A counter affidavit has been filed on behalf of respondent no.2 in which it has been admitted that recommendation has been made by

The Bihar Public Service Commission. In para 6 it has been stated that after recommendation of the name of the petitioner for appointment, the Rural Development Department had directed to appoint him on the post of Extension Officer in the District Rural Development Agency Garhwa, so Rural Development Department's action in this regard is quite appropriate. In the same paragraph it has also been stated that the District Rural Development Agency is an autonomous body under the Societies Registration Act, 1860 and the post of Extension Officer in the District Rural Development Agency is not a government post. In the counter affidavit it has further been stated that if the petitioner was not eager for appointment to the post of Extension Officer he should have written to the Bihar Public Service Commission for recalling the recommendation. The petitioner had already been requested by the Department to do so vide letter no.10795 dated 8.11.1996.

Upon hearing learned counsel for the parties and considering the materials on record this much is obvious that the petitioner applied for appointment pursuant to the advertisement, annexure 2. Item 18 of the advertisement mentions the post of Extension Officer. Obviously, the advertisement was issued pursuant

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to the request made by the government. The petitioner appeared in the test and he was selected for appointment and accordingly list for appointment was sent by the Bihar Public Service Commission to the government. The petitioner's name was recommended for the post of Extension Officer in the Rural Development Department. He was not appointed in the Rural Development Department rather he was appointed in the District Rural Development Agency. In the counter affidavit it has been admitted that District Rural Development Agency is an autonomous body under the Societies Registration Act, 1860 and its employee is not a government employee. However, in the counter affidavit it has been stated that since the name of the petitioner was recommended for appointment on the post of Extension Officer, the respondent/authority concerned had directed to appoint him in District Rural Development Agency. The stand in the counter affidavit appears to be something peculiar when in the counter affidavit it has been admitted that the District Rural Development Agency is not a government department. It is an autonomous body and is registered under the Societies Registration Act. Moreover, when the advertisement was published for appointment on the post of Extension Officer in the Rural

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Development Department, it is peculiar that the Rural Development Department directed to appoint the petitioner in the office of District Rural Development Agency which is not a government office. The action of the respondent concerned requires to be deprecated and indicates that the respondent without applying its mind passed the order.

In the circumstances, the writ petition is allowed. The respondents are directed to consider the grievance of the petitioner for his appointment in the office of the government and pass necessary order expeditiously preferably within a period of four months from the date of receipt/production of a copy of this order. It is, however, made clear that since on the recommendation, action has been taken and as such there shall be no requirement for revalidation of the recommendation made by the Bihar Public Service Commission.

Md.S.

S/-  
(R.N. Prasad)

T- C  
Md. Senaullah  
Sr. A  
17.3.2004

*[Faint handwritten notes in the left margin, including "Md. S.", "R.N. Prasad", and other illegible scribbles.]*