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PARMANAND SINGH

v.

UNION OF INDIA AND ORS.
(Civil Appeal No. 478 of 2009)

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JANUARY 28, 2009

**[DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]**

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Service Law – Appointment – Claim of appellant negated on ground that he did not file original certificates/ documents with regard to his qualifications – Respondent No.6 who was appointed had filed all relevant documents – Held: Appellant was not in a position to produce the original documents as they were with the Institution where he pursued his studies – However, continuance of respondent No.6 not disturbed – Direction issued that in case of any vacancy where appellant can be adjusted, the same be done by the authorities.

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The Tribunal negated the claim of the appellant for appointment to the post of Extra Departmental Branch Post Master on two grounds; firstly, his land was encumbered and secondly he did not file the original certificates / documents with regard to his qualifications. Appellant filed writ petition against the order. The High Court held that even if the first ground that the land was not encumbered is accepted, the writ petition was to be dismissed as all the relevant documents were not produced and respondent No.6 who was appointed had filed all the relevant documents.

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In appeal to this Court, it was contended by the appellant that original documents were with the institution where the appellant was pursuing his studies and such institution had clearly certified that the original copy of

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the mark sheet, admit card, school leaving certificate and other documents submitted by the students at the time of their admission are not returned to them under an order passed by the State Government. It was contended by the appellant that there was no requirement to produce the original documents.

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Disposing of the appeal, the Court

HELD: The original documents were not produced before the authorities because the documents were with the institution and the appellant was not in a position to produce the original documents. In view of the aforesaid it is not necessary to examine whether there is any requirement for producing the original documents as observed by the departmental authorities. Respondent No.6 is continuing in his job. Therefore, without disturbing his continuance, it is directed that in case there is any vacancy in the nearby area where the appellant can be adjusted, the same can be done by the authorities after following the necessary norms. The appellant shall not be entitled to any back wages and the continuance of Respondent No.6 shall not be disturbed. [Para 5] [671-A-C]

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 478 of 2009.

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From the Judgment/Order dated 4.1.2005 of the High Court of Judicature at Patna in CWJC No. 16367 of 2004.

H.L. Agarwal, A.G. Agarwal and Dr. Kailash Chand for the Appellant.

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B. Dutta, ASG., Sadhna, Sandhu, B.K. Prasad, V.K. Verma, Akhilesh Kumar Pandey and Shalini Chandra for the Respondent.

The Judgment of the Court was delivered by

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A **DR. ARIJIT PASAYAT, J.**1. Leave granted.

2. Challenge in this appeal is to the order passed by a Division Bench of the Patna High Court dismissing the Writ Petition filed by the appellant. Before the High Court, challenge was to the order passed by the Central Administrative Tribunal, Patna Bench (in short the 'CAT'). The CAT by the impugned order negated the claim of the appellant for appointment to the post of Extra Departmental Branch Post Master (in short 'EDBPM'). CAT held that the claim made by the appellant cannot be accepted on two grounds; firstly, his land was encumbered and secondly he did not file the original certificates with regard to his qualifications. Stand of the appellant before the High Court was that the conclusions relating to encumbrance of land are incorrect as the encumbrance was with regard to another plot of land and not relating to the land belonging to the appellant. It was also pointed out that the certificates were produced at the time of hearing of the original application before the CAT. The High Court held that even if the first ground that the land was not encumbered is accepted, the writ petition was to be dismissed as all the relevant documents were not produced and respondent No.6 who was appointed had filed all the relevant documents. Therefore, the petition was dismissed.

3. Learned counsel for the appellant submitted that the original documents were with the institution where the appellant was pursuing his studies and in fact the institution had clearly certified that the original copy of the mark sheet, admit card, school leaving certificate and other documents submitted by the students at the time of their admission are not returned to them under an order passed by the State Government. It is the stand of the appellant that there is no requirement to produce the original documents.

4. Learned counsel for the respondent-State supported the judgments of the CAT and the High Court.

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5. It is not disputed that the original documents were not produced before the authorities because the documents were with the institution i.e. Ramdayalu Singh College, Muzaffarpur and the appellant was not in a position to produce the original documents. In view of the aforesaid it is not necessary to examine whether there is any requirement for producing the original documents as observed by the departmental authorities. Respondent No.6 is continuing in his job. Therefore, without disturbing his continuance, we direct that in case there is any vacancy in the nearby area where the appellant can be adjusted, the same can be done by the authorities after following the necessary norms. The appellant shall not be entitled to any back wages and the continuance of Respondent No.6 shall not be disturbed.

6. The appeal is accordingly disposed of.

B.B.B.

Appeal disposed of.