

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.244 of 2015

IN

Civil Writ Jurisdiction Case No. 20864 of 2013

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1. Pramod Kumar Shrivastava Son of Late Baidya Nath Prasad Resident of village /Mohalla - Madarpur, P.O. Darbhanga, P.S. Darbhanga, District - Darbhanga

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Health, Govt. of Bihar, Patna
3. The Principal Secretary, Personnel and Administration Department, Govt. of Bihar, Patna
4. The Director - in - Chief, Health Services, Bihar, Patna
5. The Additional Director, Health Services, Bihar, Patna
6. The Regional Deputy Director, Health Services, Darbhanga Division, Darbhanga
7. The Civil Surgeon - Cum - Chief, Medical officer, Darbhanga
8. The Medical officer In - Charge Hayaghat, Darbhanga

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Kumar Verma

For the Respondent/s : Mr. GP6- PRASHANT PRATAP

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 29-07-2015

This Appeal is preferred against the judgment dated 3.12.2013 passed in C.W.J.C. No.20864 of 2013.

The appellant was appointed as a Family Planning Worker in the year 2001, by the Government of Bihar. However, on finding that his appointment was on the basis of some misrepresentation or forged documents, he was dismissed from service on 29.12.2001. Aggrieved by that, he filed C.W.J.C. No. 5826 of 2002. When the matter



was half way through, the petitioner sought to withdraw the same stating that he would pursue the remedy of a suit. Through order dated 21.7.2010, this Court accorded permission to withdraw the petition, leaving it open to the petitioner to pursue the remedy of suit. The Court also observed that the petitioner procured appointments on the basis of forged letters. The appellant did not file a suit as represented by him in the writ petition. However, he filed a representation on 1.2.2011 before the Commissioner-cum-Secretary, Department of Health, in relation to the dismissal. The representation was rejected through an order dated 28.1.2013 taking note of the fact that the appointment itself was contrary to law. Challenging the said order, the appellant filed C.W.J.C. No.20864/2013. Learned single Judge dismissed the writ petition by taking note of the earlier developments.

Heard Shri Sunil Kumar Verma, learned counsel for the appellant and Shri Prashant Pratap, learned counsel for the respondents.

We find that the appellant has resorted to gross misuse of law as and when it suits his conscience. When he was dismissed from service on the ground that his appointment was on the basis of forged papers, he filed



C.W.J.C. No.5826/2002. Once he realized that he cannot establish that the appointment was proper, he withdrew the petition by specifically representing that he would pursue the remedy of filing a suit. Permission was accorded and the writ petition was dismissed as withdrawn. In case the appellant intended to pursue any remedy other than suit, it was open for him to seek modification of the order. Though he filed the review petition in this behalf, it was rejected. As a result, it was not open for him to pursue any remedy other than the suit.

Notwithstanding such position, the appellant filed a representation on 1.2.2011 before the Commissioner-cum-Secretary, Health Department. Obviously, because a representation was made, a reply was given taking the view that no relief can be granted to him. Cleverly enough, the appellant treated that as a fresh cause of action, virtually giving a burial to the earlier round of litigation and order of withdrawal passed at his instance.

We take serious exception to the gross misuse of process of law resorted to by the appellant. Accordingly, we dismiss the Appeal.

Though we intended to impose costs, we desist from doing it because the appellant is said to be

unemployed.

Interlocutory application, if any, stands disposed
of.

(L. Narasimha Reddy,CJ)

(Anjana Mishra, J)

K.C.jha/-
N.A.F.R.

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