

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.871 of 2006
IN
Civil Writ Jurisdiction Case No. 2991 of 2004**

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1. The State of Bihar.
 2. The Secretary, Department of Forest Government of Bihar, Patna.
 3. The Conservator of Forest, Purnea Extension, Anchal Purnea.
 4. Divisional Forest Officer, Extension Forest Division, Katihar, Now Merged in D.F.O., Araria

.... Appellants-Respondents.

Versus

Dinesh Razak, Son of late Deep Narayan Rajak, resident of village North Agon,
P.O. Kerha, P.S.- Fhalka, District- Katihar.

.... Respondent-petitioner.

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Appearance :

For the Appellant/s : Mr. S. Raza Ahmad, Gv. Adv. (AAG IX)
Mr. Vishwambhar Pd., (AC to AAG IX)
For the Respondent/s : Mr. Mukesh Kumar Jha, Advocate.
Mr. Bhola Prasad, Advocate.

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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: 06-07-2015

Heard learned counsel for the State and the private respondent.

2. It appears that the private respondent in this appeal was the writ petitioner in C.W.J.C. No. 2991 of 2004, which was disposed of on 07.03.2006. The writ petitioner was a driver engaged at Divisional Forest office on daily wages because of shortage of drivers there. The writ Court found that his appointment was totally irregular and against the Government norms but as there was shortage and he was allowed to work for over 14 years, the writ Court observed that till the steps are taken for appointment of Drivers as per

Government norms, the writ petitioner should not be disengaged. Even if, when the case of permanent appointment is taken up he should be granted an opportunity, in view of 14 years of service in the Department itself and his case for permanent appointment should also be considered. State, being aggrieved, has filed this appeal.

3. This Court did not preclude the State from making permanent appointments nor writ petitioner/driver is only a person who would be made permanent. The writ petitioner was allowed to continue till permanent appointments were made and till date he is continuing as such. It is now almost 24 years that the petitioner has been working as a driver on daily wages. It would be travesty of justice, if we hold that he should be terminated.

4. At the same time, it would not be permissible for this Court to hold that he be terminated when less than about 10 years of service left. We would only agree with the view of the learned Single Judge that till permanent appointments are not made, the petitioner would not be disturbed.

5. With the above observation, this L.P.A. is dismissed.

(Navaniti Prasad Singh, J)

(Rajendra Kumar Mishra, J)

Bhardwaj-P.S./-

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