

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1368 of 2014
IN
Civil Writ Jurisdiction Case No. 21055 of 2011

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Maresh Kumar Singh, son of Late Kedar Singh, resident of Mohalla- Kushmi,
P.O.- Chandadih, P.S.-Dhoraiya, District-Banka (Bihar)

.... Appellant

Versus

1. The State of Bihar
2. The Director, Bihar Education Project Council, Beltron Bhawan, Shastri Nagar,
Patna-800023
3. The Programme Officer, Bihar Education Project Council, Beltron Bhawan,
Shastri Nagar, Patna-800023
4. The District Magistrate, Banka
5. The Deputy Development Commissioner, Banka
6. The District Programme Officer, Banka
7. The Block Education Extension Officer-cum-Block Resources Centre
Coordinator, Dhoraiya, District-Banka
8. Arvind Kumar, Block Teacher, Middle School, Chandadih, District- Banka
9. Binay Kumar Pandey, CRCC, Shashan cum Incharge CRCC, Mumbai.

.... Respondents

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Appearance:

For the Appellant	:	Mr. Prashant Sinha, Advocate
		Mr. Awadhesh Kumar, Advocate
For Respondent No. 6:		Mr. Girijesh Kumar, Advocate
For the Respondents :		Mr. Jayant Kumar Vinod Gautam, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-02-2015

I.A. No. 7539 of 2014

This Interlocutory Application is filed with a prayer to
condone the delay of 119 days in filing the Appeal.

We are satisfied with the reasons mentioned in the
Interlocutory Application and the delay is condoned.

The Interlocutory Application is allowed.

L.P.A. No. 1368 of 2014

The petitioner is working as an Assistant Teacher in the Middle School, Chandpur in the District of Banka. On the basis of his seniority, he has been appointed as a Co-ordinator of Cluster Resource Centre, Kusmi, Banka. Three years thereafter the Block Education Extension Officer, Dhoraiya, 7th Respondent herein, replaced the petitioner with Sri Arvind Kumar, 8th Respondent herein through his order dated 03.11.2011. Challenging the order dated 03.11.2011 the appellant filed CWJC No. 21055 of 2011. The learned Single Judge dismissed the writ petition through order dated 14.02.2014. Hence, this Appeal.

Heard Sri Prashant Sinha, learned counsel for the Appellant and Sri Girijesh Kumar, learned counsel for Respondent No. 6.

The substantive post of the petitioner is Assistant Teacher. On account of the seniority in that post he has been appointed or engaged as Cluster Resource Person. Nobody objected to his appointment. Three years after the appointment, the 7th Respondent removed him through order dated 03.11.2011.

It is true that for all practical purposes the functioning of the appellant as Cluster Resource Person was on deputation and no employee can claim deputation as a matter of right. The grievance of the appellant however, is that in the order dated 03.11.2011 the 7th Respondent made several

observations touching upon his functioning and efficiency.

We have also perused the order dated 03.11.2011. From that, it is evident that the 7th Respondent has made certain remarks as to functioning of the Appellant. If his intention was to disqualify the appellant, on account of any lapses he was under obligation to issue notice. No punitive steps can be taken on the basis of unsubstantiated allegations, nor in fact any punishment was imposed. Immediate concern of the appellant seems to be the effect of the observations made by 7th Respondent in the order dated 03.11.2011. Though effort is made to convince us to restore the position of the appellant, we are not inclined. However, the observations made in the order dated 03.11.2011 cannot be treated as any reflection in the service of the appellant.

We, therefore, partly allow this appeal by directing that none of the observations made in the order dated 03.11.2011 shall be treated as adverse findings on the functioning of the appellant and nor shall they have any effect on the future career of the appellant.

Interlocutory Application, if any, stands disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Vikash Jain, J)

Chandran/Md.Ibrarul

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