

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1523 of 2014

=====

1. Nikhil Kumar Singh S/o Sri Madan Singh Resident of Village Purani Bazar
Jolaha Toli Ramnagar, Police Station Ramnagar, District West Champaran.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Director, Bihar Administrative Reforms General Administration
Department, Bihar, Patna.
3. The District Magistrate, Bettiah, West Champaran.
4. The Sub Divisional Magistrate, Bagaha, West Champaran.
5. The Block Development Officer, Bagaha-1, West Champaran.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Anand Kishore Choudhary

For the Respondent/s : Mr. Gyan Prakash Ojha, G.P-22

=====

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 08-10-2015

Heard Mr. Anand Kishore choudhary, learned counsel,
appearing on behalf of the appellant and Mr. Gyan Prakash Ojha,
learned Government Pleader No.22, appearing on behalf of the
respondents State.

2. Aggrieved by an order, dated 11.04.2013, passed by the
District Magistrate, West Champaran, Bettiah, whereby the
appellant's appointment on contractual basis as Information and
Technology Assistant, Bagaha-I, came to be cancelled, the appellant
had approached this Court by filing a writ application, under Article

226 of the Constitution of India, giving rise to CWJC No.10862 of 2013. The said writ application has been dismissed by an order passed by a learned single Judge, dated 10.03.2014, which has been put to challenge in the present appeal under Clause 10 of the Letters Patent of the High Court has been filed.

3. Learned single Judge has dismissed the writ application on the ground that keeping in view the nature of appellant's engagement, the writ application under Article 226 of the Constitution of India was not maintainable and he could avail the remedy under common law.

4. There are certain facts, which are not in dispute. The appellant's initial engagement made by an order, dated 18.03.2011, was, for a period of one year, purely on contractual basis. Nothing has been brought on record to demonstrate that the said period was subsequently extended by any order passed by the competent authority. Dissatisfied with the working of the appellant, a show cause notice was issued to him asking him to explain as to why his contractual appointment be not terminated. After considering the show cause reply filed by the appellant, the competent authority passed an order, dated 11.04.2013, removing the appellant from service.

6. We do not find any illegality in the order under appeal, firstly, for the reason that the appellant did not have any right to hold

a post against which he was appointed after the period of his contractual appointment had come to an end. Further, we do not find any infirmity in the reasoning assigned by the learned single Judge holding that in view of the nature of appellant's contractual engagement, he could have availed the remedy under common law and not under the extraordinary writ jurisdiction of this Court.

This appeal is, accordingly, dismissed as it does not have any merit.

(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

ArunKumar/-

U			
---	--	--	--