

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.890 of 2014

IN

Civil Writ Jurisdiction Case No. 18546 of 2013

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Dr. Ajay Kumar S/o Shri Nawal Kishore Sharma, resident of Mohalla- Mishra Tola,
P.S.- Sadar (Darbhanga), District- Darbhanga

.... Appellant/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Health,
Government of Bihar, Patna
2. The Principal Secretary, Department of Health, Govt. of Bihar, Patna
3. The District Magistrate, Madhubani
4. The Civil Surgeon- cum- Member Secretary, District Health Society,
Madhubani
5. Senior Deputy Collector, District Public Grievance Cell, Madhubani

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Hemant Kumar Jha, Advocate

For the Respondent/s : None

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 12-05-2015

This Letters Patent Appeal is preferred against the order
dated 29.10.2013 passed by the learned Single Judge in CWJC
No.18546 of 2013.

Unsuccessful petitioner is the appellant. The facts, in brief, are, as under.

The State of Bihar had undertaken engagement of Dental Surgeons on purely adhoc and temporary basis, in the year 2006. The arrangement was that the candidate, who are selected and empanelled, must treat the patient, on two days in a week and he would be paid a sum of Rs.500/- per week. About 15 persons were selected, but 8 of them left the assignment.

Thereafter, the process was taken up in the year 2009. A panel of about 23 persons was prepared and they were assigned the work. In between, an advertisement was issued on 08.10.2007 inviting applications from the candidates holding MDS degree for being engaged on contract basis, on a fixed pay of Rs.15,000/- per month. The appellant claims to have submitted his application in response to that.

On noticing that several persons who were engaged from the panel prepared in the year 2009, were appointed on regular basis at a later stage, the appellant went on making representations. His grievance was that applications were not called for, at that time. In reply to that, a letter was addressed to him on 31.07.2012. Not satisfied with that, the appellant made representation on 13.08.2012. Alleging that the said representation was not considered, the appellant

filed the writ petition. The learned Single Judge dismissed the same on the grounds, including that of laches. Hence, this appeal.

Heard Sri Hemant Kumar Jha, learned counsel for the appellant.

Basically, we find that the assignment in question was purely temporary, and is not even comparable to an adhoc arrangement. The persons empanelled were paid a sum of Rs.500/- per week for treatment to be made by them on two days in that week. Hardly any process of the selection or appointment is involved. It is only to tide over the basic needs on account of shortage of staff, that such arrangement was made. The appellant did not respond at that time. He went on making correspondences at a later point of time. It is not known as to when such arrangement was discontinued.

The basis of the appellant to file the writ petition appears to be that the persons that were engaged on emoluments of Rs.500/- per week were given some preference at the time of subsequent selection. The writ petition was filed only in the year 2013, i.e. four years after the so-called preparation of panel. The nature of engagement was such that virtually any qualified person can apply. There is no point in making correspondences, once the appellant has been given a reply and he has chosen, not to challenge the same in the Court of law.

The appeal is, accordingly, dismissed.

Interlocutory application, if any, shall stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Sudhir Singh, J)

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