

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.225 of 2015

IN

Civil Writ Jurisdiction Case No. 23693 of 2013

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Dr. Vimlesh Vivuti Ranjan, Son of Late Jagdish Narayan Sinha, Resident of
Mohalla - Sikandarpur Kundal, P.S. Town Muzaffarpur, District - Muzaffarpur

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. Principal Secretary, Science and Technology Department, Govt. of Bihar, Patna
3. Director, Science and Technology Department, Govt. of Bihar, Patna
4. Joint Secretary, Science and Technology Department, Govt. of Bihar, Patna
5. Deputy Secretary, Science and Technology Department, Govt. Of Bihar, Patna
6. Principal, M.I.T., Muzaffarpur

.... Respondents- Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajendra Prasad, Senior Advocate
 Mr. Pramod Kumar, Advocate
 Mr. Ritesh Kumar, Advocate
For the Respondent/s : Mr. P.N. Shahi, A.A.G.-10
 Mr. Ravindra Kumar, A.C. to A.A.G.-10

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-07-2015

Unsuccessful petitioner in CWJC No.23693 of 2013
filed this appeal.

The appellant was initially engaged as Part Time
Lecturer in Civil Engineering by the Muzaffarpur Institute of
Technology, Muzaffarpur- 6th respondent herein. It is stated that the
engagement, though for limited period, was being renewed from



time to time. In the year 2013, the respondent has undertaken a selection process and the appellant was selected as Lecturer on contract basis. Accordingly, an agreement was entered into on 11.12.2013. Initial term of the office was mentioned as one year (Annexure-27). However, on 11.2.2014, the 6th respondent terminated the contract of the appellant on the ground that he did not take classes. The same was challenged in the writ petition. The learned Single Judge dismissed the writ petition mainly on the ground that the matter is purely contractual in nature, and the writ petition under Article 226 of the Constitution is not a proper remedy. Hence, this appeal.

Heard Sri Rajendra Prasad, learned senior counsel for the appellant and Sri P.N.Shahi, learned Additional Advocate General-10 for the respondents.

The engagement of the appellant is no doubt contractual in nature. The fact, however, remains that it was on the basis of selection and in an institution established and managed by the State. Whatever be the nature of engagement, the State is required to act in accordance with law, and not in an arbitrary manner. In case, there was any omission on the part of the appellant as regards discharge of duties, it was always open to the 6th respondent to issue notice or to inform the same to the appellant.



However, straightaway, a single line order was issued on 11.02.2014, within two months from the date of entering into contract. One cannot ignore the fact that the appellant was serving the institution for the past more than one and half decades. He cannot be subjected to such treatment. The judgment of the Hon'ble Supreme Court in *Central Inland Water Transport Corporation Limited and Anr. Vs. Tarun Kanti Sengupta and Anr*¹ becomes relevant. The State cannot take advantage of the fact that a contract was entered into with the employee.

We are convinced that the order passed in the writ petition cannot be sustained in law, be it on procedural aspects or on merits.

We, therefore, allow the appeal and set aside the order dated 07.01.2015 passed in the writ petition. As a result, the writ petition is allowed and the order dated 11.02.2014 (Annexure-27) is set aside. In case, the 6th respondent takes the appellant into service within two months from today, they shall be under no obligation to pay backwages. In default, they shall be under obligation to pay backwages from the date of order of termination of contract. We further direct that the contract of the appellant shall not be terminated, except on disciplinary grounds, or unless the

¹ AIR 1986 SC 1571

appointment on regular basis is made against that post.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Anjana Mishra, J)

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