

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.90 of 2012

IN

Civil Writ Jurisdiction Case No. 20918 of 2011

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Shreeniwas Poddar, S/O Late Kishun Lal Poddar, R/O Sirsa Chowk, P.O.- Dalan,
P.S.- Muffasil, District- Katihar.

.... Petitioner-Appellant

Versus

1. The State Of Bihar through Secretary, Building Construction Department, Govt. Of Bihar, Patna.
2. The Secretary, Building Construction Department, Govt. Of Bihar, Patna.
3. The Chief Engineer (North) Building Construction Department, Govt. Of Bihar, Patna.
4. The Superintendent Engineer, Building Construction Circle, Purnea.
5. The Executive Engineer, Building Division, Katihar.
6. The Assistant Engineer, Building Subdivision No.3, Katihar.

.... Respondents- Respondents

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Appearance :

For the Appellant : Mr. Abhinav Shrivastava, Advocate
Mr. Amrendra Kumar, Advocate

For the Respondents : Mr. Ashish Kumar Lal, A.C. to G. A. XII

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 25-02-2016

The present Letters Patent Appeal is directed against an order passed by the learned Single Bench on 20th December, 2011 in CWJC No.20918 of 2011, whereby the claim of regularization of the appellant was declined, *inter alia*, on the ground of delay and laches and also for the fact that his age of superannuation was falling on 31st of October, 2011, whereas he has filed the writ petition on 25th of October, 2011, therefore, could not be considered for regularization.

Learned counsel for the appellant relies upon the



Resolution dated 17th October, 2013 whereby the cut off period of regularization of employees of work charged establishment was extended. It is contended that in terms of the extended cut off date fixed vide Resolution dated 17th of October, 2013, the appellant satisfied the parameters of regularization, therefore, he is entitled for a direction to be considered for regularization in accordance with the Resolution of the State Government and the policy, instructions issued from time to time.

We do not find any merit in the present Letters Patent Appeal. The Resolution dated 17th October, 2013 is after the cut off date of superannuation, i.e. 31st of October, 2011 and the employee who has already attained the age of superannuation cannot be extended the benefit of subsequent resolution passed almost two years later. Still further, since the appellant approached this Court just six days before his age of superannuation, therefore, no direction can be issued. The regularization has to be on the date when an order is passed. The order of regularization cannot have retrospective effect. In *Uttar Haryana Bijli Vitran Nigam Ltd. & Ors. Vs. Surji Devi*, reported in (2008) 2 SCC 310, the Hon'ble Supreme Court has held that the benefit of work charged service cannot be given to an employee whose services are not regularised before his death. Since the appellant could not be regularised before his attaining the age of

superannuation, there cannot be any direction to regularise his service.

In view thereof, we do not find any merit in the present Letters Patent Appeal. The same thus stands dismissed.

(Hemant Gupta, J)

(Nilu Agrawal, J)

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