

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.339 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 19331 of 2013**

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1. Sachitanand Prasad Gupta, S/o Hera Lal Gupta, Resident of Mohalla Gandhi Chowk, Gorkhi Road, P.S. Garkha, District Saran.
 2. Md. Javed, S/o Mohd. Shakir, Resident of Village Bhairapur, P.S. Doriganj, District Saran.

.... Appellants

Versus

1. Jai Prakash University through its Vice Chancellor, Saran at Chhapra.
2. The Vice-Chancellor, J.P. University, Saran at Chhapra.
3. The Registrar, J.P. University, Saran at Chhapra.
4. The Principal Jag Lal Choudhary College, Saran at Chhapra.

.... Respondents

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Appearance :

For the Appellants : Mr. Subhodh Prasad, Advocate.

Mr. Satya Prakash, Advocate.

For the Respondents : Mr. Mrigendra Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 06-05-2016

Re.: I.A. No. 1609 of 2015

The application is for condonation of delay of 26 days in filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory Application, we are satisfied that the appellants have shown sufficient cause to seek condonation of delay of 26 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 1609 of

2015 is allowed and delay of 26 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 339 of 2015

Heard learned counsel for the appellants and the respondents.

2. Present Letters Patent Appeal is directed against an order dated 3rd of December, 2014 passed by the learned Single Bench of this Court in C.W.J.C. No. 19331 of 2013, whereby the writ application filed by the appellants for appointment to the post of Peon for the reason that the appellants are discharging their duties and responsibilities since 1980, was dismissed.

3. The learned Single Bench held that the appellants have not submitted proof of their appointment on daily wage nor any proof that they worked since then uninterruptedly.

4. The stand of the University in their reply is that they have no record available to support the assertion of the appellants.

5. The learned counsel for the appellants refers to Annexure-1 to contend that the appellants were appointed and that such appointment is not on daily wage. The appellants contend that they are continuing to discharge their duties from the date of their appointment, which is 06.02.1986.

6. We do not find that this Court can issue directions for

absorption or any other direction on the basis of such letter alone when the stand of the University is that they have no record of the appellants of their appointment.

7. The Writ Court normally does not decide the disputed questions of fact. Such questions of fact are to be adjudicated upon by the Civil Court on the basis of evidence which may be led by the parties. The question as to whether, the appellants were appointed or are continuing work can be accepted merely on the basis of one photocopy of the letter more so when the stand of the respondents is that they have no record to support such assertion.

8. In view thereof, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal.

9. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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