

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1781 of 2015

In

Civil Writ Jurisdiction Case No. 12030 of 2014

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1. Umesh Gara Son of late Ramautar Gara Resident of Ganj Road, Ward
No.12, P.O. + Police Station - Dalsinghsarai, District - Samastipur

.... Appellant/s

Versus

1. The State of Bihar
2. The Collector, Samastipur
3. Dalsinghsarai Municipal Council through its Chief Executive Officer,
Dalsinghsarai, District - Samastipur
4. Sub - Divisional Officer, Dalsinghsarai, District - Samastipur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dronacharya, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

**HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

2 29-01-2016 The petitioner-appellant was, admittedly, placed

under suspension on 07.08.1995, while he was working as a Tax

Collector. Following his suspension, a disciplinary proceeding

was initiated against the petitioner-appellant, which, according to

Annexure-7 to the writ petition, ended in dismissal of the writ

petitioner-appellant.

Contending that notwithstanding the contents of

Annexure-7 to the writ petition, the writ petitioner remained in

service, the writ petitioner filed a writ petition, under Section 226

of the Constitution, which gave rise to CWJC No.12030 of 2014, wherein the writ petitioner-appellant sought for the following reliefs:

“(i) The Suspension order, dated 07.08.1995, issued by the then chairman-cum-S.D.O., Notified Area Committee, Dalsinghsarai, be quashed.

(ii) The Departmental proceeding initiated against the petitioner vide Letter No.465, dated 31.12.1998, be quashed.

(iii) Petitioner be paid all his legal emoluments from the date of suspension till the date with other consequential benefits paid by the authorities from time to time.

(iv) The petitioner be also paid 18% interest over his dues payable by the respondent authorities from the date of accrual of the dues to the date of actual payment.

(v) The petitioner be also adequately compensated by way of compensation, damages for unnecessary harassment and mental agony for last 19 years.

(vi) The petitioner be granted cost of legal proceeding throughout.

(vii) Petitioner be also allowed any other relief/reliefs permissible under facts and circumstances of the case.”

Having noticed the fact that the writ petitioner had submitted in his writ petition that he had not yet been dismissed,

the learned single Judge declined to entertain the writ petition by making some observations, which read as follows:

“Since the respondents have taken a plea that petitioner has been dismissed in the year 2001, let him get his status first by moving an appropriate forum in this regard.

This Court will not pass any order creating more confusion by any observation on the plea against suspension when he is supposed to have been dismissed more than a decade and a half ago.”

We have heard Mr. Dronacharya, learned Counsel, appearing on behalf of the appellant.

In view of the fact that unless it is declared by a court of competent jurisdiction that notwithstanding the dismissal order, dated 07.08.1995, which has been brought on record by way of Annexure-7 to the writ petition, the writ petitioner-appellant still remained in service. It is submitted on behalf of the writ petitioner-appellant that the writ petitioner-appellant cannot seek any relief, which he may be entitled to, and withdraw with liberty.

In view of the above and in the interest of justice, the appeal is hereby disposed of as withdrawn with liberty granted to the petitioner-appellant to approach this Court with appropriate

application in future, if so advised, and/or to take recourse to such provisions of law as may be permissible.

(I.A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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