

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.650 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 15674 of 2006

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1. Chander Prasad, Son of Sri Kashi Prasad, Resident of Ward no. 4,
Ghoghardiha Nagar Panchayat, P.O- Ghoghardiha, P.S- Ghoghardiha,
District- Madhubani Petitioner-Appellant

Versus

1. The Allahabad Bank through its General Manager, Head Office-2,
Netajee Subhash Road, Calcutta- 700001.
2. The Zonal Manager, Allahabad Bank, Zonal Office, Ramana Road, Near
Zila School, Muzaffarpur.
3. The Senior Manager (P.A), Zonal Office, Ramana Road, Near Zila
School, Muzaffarpur.
4. The Branch Manager, Allahabad Bank, Manager at Phulpras, P.O-
Phulpras, District- Madhubani Respondents-Respondents

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Appearance :

For the Appellant : M/S Suraj Narain Yadav & Annu Shree, Advs.
For the Respondents : Mr. Rajan Ghoshrawe, Adv.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

**HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

5 21-09-2016 The challenge in the present Letters Patent Appeal is

against an order passed by the learned single Judge on 02.05.2013

by which the writ petition was dismissed with liberty to the

petitioner-appellant to seek adjudication of his claims in

accordance with law.

As per the petitioner-appellant he was engaged in

July, 1998, as part time Sweeper on daily wages at the rate of

Rs.30/- per day. The Bank initiated the process of appointment for

which interview letter was issued on 23rd July, 2000, but, the

petitioner-appellant admits that no one was appointed in pursuance of such interview. The grievance of the petitioner-appellant is that he has continued to work both on different wages, i.e., Rs.40/- per day in the year 2004 and on fixed salary, Rs.740/- till the month of April, 2005, but thereafter, even the payment of Rs.740/- per month was stopped. The prayer of the petitioner is to set aside, his termination in the year 2006.

The learned single Judge has dismissed the writ petition on the ground that the petitioner-appellant has raised disputed question of fact in respect of his appointment as to whether, the appointment, if any is on daily wager, fixed period or contractual or temporary etc. Such nature of appointment cannot be decided in proceeding under Section 226 of the Constitution of India as such question can be decided only after adequate opportunity is given to the parties in support of their respective claims.

Before this Court, the learned counsel for the petitioner-appellant relies upon Annexure 4 to the writ petition, dated 26th June, 2006, which contemplates 1/3rd of pay to certain personnel engaged as *Safai Karamchari*.

The question as to whether the appellant is covered by said scheme or not, is a matter of fact. Since, the appellant was

engaged on part time daily wager, therefore, no right accrues to the appellant on disengagement of such services in the year 2006.

Consequently, we do not find any merit in this appeal.

The Letters Patent Appeal is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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