

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1956 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 20995 of 2014

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Ramashish Kumar, Son of Sri Bhola Singh, Resident of B.S.S.R. Union Rest House, Jai Prabha Nagar, Kayasth Tola, District-Saharsa. '

.... Petitioner- Appellant/s

Versus

1. The Chairman Lupin Limited, Laxmi Tower, C-wingh 4th Floor, Bandra Kurla Complex, Mumbai 400051
2. The Managing Director, Lupin Limited, Laxmi Tower, C wing, 4th floor, Bandra Kurla Complex Mumbai-400051
3. The President (IRF), Lupin Limited, Laxmi Tower, C wing, 4th Floor, Bandra Kurla Complex, Mumbai 400051
4. The Senior General Managar, Lupin Limited, Laxmi Tower, C wing, 4th Floor, Bandra Kurla Complex, Mumbai 400051
5. The General Manager Limited, Laxmi Tower, C wing, 4th Floor, Bandra Kurla Complex, Mumbai 400051
6. The Vice President Lupin Limited, Laxmi Tower, C wing, 4th Floor, Bandra Kurla Complex, Mumbai 400051
7. The Head, HRIRF, Lupin, Limited, 159, C.S.T. Road Kalina Shantakruz East Mumbai 100098
8. The Sales Manager Lupin Limited, 203, Dukhan Ram Plaza, Exhibition Road, Patna.-10
9. The State of Bihar
10. The Labour Department, Government of Bihar, Patna.
11. The Presiding Officer, Labour Court, Purnea.

.... Respondents 2nd Set/ Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Kumar Singh
Mr. Mr. Sudhir Kumar
For Respondent Nos.1 to 8 : Mr. Alok Kumar, Mr. Indrajeet Bhushan and
Mr. Manish Kumar
For Respondent Nos.9 -11 : Mr. Gautam Bose, AAG 8
Mr. Rohit Mishra

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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: 03-05-2016

The present Letters Patent Appeal is directed against the

order passed by the learned Single Bench of this Court in CWJC No. 20995 of 2014, wherein the order of the Labour Court, Purnea, in Reference Case No. 02/2013, referred by the State Government, was upheld.

Learned counsel for the respondents has pointed out that similar issue has been examined by this Court in LPA No. 1798 of 2012 (Deepak Kumar vrs. The State of Bihar & Another), wherein it has been held that it is required to be examined whether the medical representative was within the purview of excepted category under Section 2(d) of the Sales Promotion Employees (Conditions of Service) Act, 1976 and as to whether he was engaged in supervisory capacity or engaged in managerial or administrative capacity.

In view of the aforesaid judgment and order, the present Letters Patent Appeal is allowed. The orders passed by the learned Single Bench and the Labour Court are set aside. The Labour Court is directed to examine the question as to whether the appellant was engaged in supervisory capacity drawing wages exceeding Rs.1600/- or engaged in managerial or administrative capacity.

Another argument raised by learned counsel for the appellant is that an Advocate is barred in terms of Section 36(4) of the Industrial Disputes Act, 1947 to appear before the Labour Court. Such question was examined by the Labour Court in the light of interim

order passed in Special Leave to Appeal (Civil) No. 10138/2010 (M/s Hygienic Foods vrs. Jasbir Singh & Others). Such Special Leave Petition has since been decided on 08.05.2014. Therefore, in respect of the said plea, it shall be open to the appellant to reagitate the issue before the Labour Court, which will decide the issue afresh in accordance with law.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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