

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.662 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 20744 of 2012**

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1. Nand Kumar, Son of Late Awdheshwari Prasad, Resident of Mohalla- Raja Bazar, P.S.- Airport, District- Patna
 2. Arvind Kumar, Son of Late Sundar Mahto, Resident of- 9 Circular Road, P.O.- G.P.O., District- Patna
 3. Dhandeo Manjhi, Son of Late Ram Bricksh Manjhi, Resident of Village- Galimapur, P.O.- Rampur Garkha, District- Chhapra (Saran)
 4. Parshuram Prasad, Son of Late Gopi Chand Prasad, Resident of Mohalla- Lohia Nagar, Kankarbagh, P.O.- Kankarbagh, District- Patna
 5. Bijendra Prasad, Son of Late Nathun Prasad, Resident of Village- Hardia, P.O.- Jaipur, District- Arwal

.... Appellant/s

Versus

1. The State of Bihar
2. The Secretary, Department of Home (Special), Government of Bihar, Patna
3. The Secretary, Department of Finance, Government of Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar, Advocate.
For the State : Mr. Ajay Bihari Sinha, GA-8
Mr. Suryakant Kumar, AC to GA-8

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**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 22-09-2016

Heard learned counsel for the parties.

2. The challenge in the present intra Court appeal is to the order dated 20.02.2014 passed by the learned Single Bench by which C.W.J.C. No. 20744 of 2012, filed by the appellants has been dismissed.

3. The appellants were engaged by the Justice Amir Das



(Retired) Commission and the conditions stipulated that their service will be co-terminus with the life of the Commission. After the initial period, various extensions were given to the Commission to complete the work, the last being till 31.01.2006. The Government finally decided to de-notify the Commission with effect from 01.02.2006, though the notification to this effect was issued on 10.04.2006. The appellants claiming that though they had worked till March, 2007, but were paid their emoluments only till January, 2006, moved this Court in C.W.J.C. No. 20744 of 2012 and dismissal of the same by the learned Single Bench on 20.02.2014 has given rise to the present Letters Patent Appeal.

4. Learned counsel for the appellants submitted that since work was being taken from the appellants, the Government cannot deny payment as it would amount to unpaid forced labour, which is illegal. Learned counsel further submitted that some other employees, especially Class-III, have received their emoluments till 31.03.2006, though the appellants have got the same only till 31.01.2006, which is also discriminatory.

5. Learned counsel for the State submitted that the life of the Commission was never extended beyond 31.01.2006 and the terms of engagement of the appellants clearly stipulated that it was co-terminus with that of the Commission, and thus, the Government has



discharged its obligation by clearing all the dues till 31.01.2006 which is in accordance with law and any further claim against the Government is not maintainable. It was further submitted that the amount paid by the Government was only till the period 31.01.2006 and the unspent amount was surrendered to the State exchequer.

6. Having considered the rival contentions, we do not find any merit in the present Letters Patent Appeal with regard to claim of payment till March, 2007, for the simple reason that the Commission itself stood de-notified by the order of the State Government dated 10.04.2006. The last extension given to the Commission, under order contained in Memo No. 10467 dated 18.11.2005, was subject to the clear condition that the extension till 31.01.2006 will be the last extension and that the enquiry shall be completed within this prescribed period. Thus, the final cut-off date for the life of the Commission having been fixed, the continuation beyond the said period cannot be sustained in the eyes of law and even if work was performed, the State Government cannot be saddled with the responsibility to pay the emoluments of the applicants. However, having held so, if it is a fact that other employees have been paid for any period beyond 31.01.2006 and the appellants have also discharged their duties in the Commission for the said period, the payment for such period be also made to the appellants, but only till a



maximum period of 09.04.2006 i.e., the date after which the Commission was de-notified.

7. Accordingly, the Letters Patent Appeal stands disposed off with a direction to the State authorities to find out as to whether the appellants have worked beyond 31.01.2006 and other employees have been paid for the period beyond 31.01.2006. If it is found that the appellants have worked, they shall be entitled to receive payment of a period beyond 31.01.2006 till they have worked or till the date other persons engaged by the Commission have been paid, whichever is earlier, but in any case not beyond 09.04.2006.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar

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