

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.17 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 3240 of 2009**

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1. The State of Bihar.
 2. The Superintending Engineer, Public Health Engineering Department, Patna Circle, Patna.
 3. The Executive Engineer, Public Health Division, Hilsa.

.... Appellants

Versus

Tej Narain Lal, Son of Sri Harakh Lal resident of village - Nainchak, Police Station and Post Office - Khagaul, District - Patna.

.... Respondent

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Appearance:

For the Appellant/s : Mr. Suresh Kumar, AC to GP-1.
For the Respondent/s : Mr. Tilak Sao, Advocate.
Mr. Prateek Kumar Sinha, Advocate.
Mr. Ram Swarup Prasad, Advocate.

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT**

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 22-12-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 02.08.2013 whereby, the challenge to the Award rendered by the learned labour Court on 20th of December, 2007 remained unsuccessful.

2. The workman, the respondent, raised dispute under



Section 10 of the Industrial Dispute Act, 1947 alleging therein he joined the services of Public Health Engineering Department on 25.08.1990, but suddenly vide letter dated 20.02.1991, his services were dispensed with.

3. The learned Labour Court answered the reference against the State, as none appeared on behalf of the State. It was held that the service of the workman has been dispensed with on an allegation of unauthorized absence when no enquiry was conducted. In view of the said fact, the termination was set aside and the workman was ordered to be reinstated.

4. The reliance of the appellant is on the letter of appointment dated 24.08.1990 wherein, the workman is said to have been employed on temporary basis against the vacant post. The fact remains that such letter of appointment was not produced before the learned Labour Court. Therefore, new documents cannot be taken into consideration and it was also not considered by the learned Single Bench.

5. Learned counsel for the respondent states that the respondent will not claim for back wages from the date of termination till the date of reinstatement, if he is reinstated within one month from today.



6. In view of the said fact, the present Letters Patent Appeal is dismissed with the condition that if the workman is reinstated within one month from the date of receipt of a certified copy of this order, he shall not be paid any back wages for the period of his termination till the date of reinstatement, otherwise the order of the learned Single Bench will be operative.

(Hemant Gupta, ACJ)

(Dinesh Kumar Singh, J)

Mishra/-

AFR/NAFR	N.A.F.R.
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