

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.171 of 2015

In

LPA 244 of 2015

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Pramod Kumar Shrivastava

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Verma

For the Respondent/s : Mr. Prashant Pratap

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

3 21-07-2016 With the help of the present review application, the appellant-petitioner seeks review of the order, dated 29.07.2015, passed in L.P.A. No. 244 of 2015, whereby the appeal was dismissed by maintaining the order, dated 3.12.2014, passed in C.W. J.C. No. 20864 of 2013.

Heard Mr. Sunil Kumar Verma, learned Counsel for the appellant-petitioner, and Mr. Dev Kumar Pandey, learned Assistant Counsel to Government Pleader No. 6, appearing on behalf of respondents-State.

The material facts, necessary for the purpose of disposal of this review petition, are, in brief, thus:-

On the ground that the review petitioner had obtained appointment as a Family Planning Worker, in the Government of Bihar, on the basis of misrepresentation and forged documents, he was dismissed from service.

Aggrieved by his dismissal from service, the review

petitioner filed a writ petition, under Article 226 of Constitution of India, which gave rise to C.W.J.C. No. 5826 of 2002. Half way through the writ petition, the review petitioner sought for leave to withdraw the writ petition by submitting before the Court that he would pursue the remedy in the form of suit. By its order, dated 21.07.2010, the Court allowed the writ petition to be withdrawn leaving the review petitioner at liberty to pursue the remedy of suit.

Admittedly, the order, dated 21.07.2010, aforementioned, was never changed, altered or modified nor was the order aforementioned set aside. No course of remedy was, therefore, left with the review petitioner except filing of suit and if he wanted to adopt any other course of action, he ought to have sought for, and obtained, leave of the Court.

Instead of filing of suit, as recorded in the order, dated 21.07.2010, the review petitioner filed a representation, on 01.02.2011, before the Commissioner-cum-Secretary, Department of Health, Government of Bihar, in relation to his dismissal order. His representation was rejected by an order, dated 28.01.2013, on the ground that the appointment of the review petitioner was contrary to law. The review petitioner did not rest there. Taking advantage of the order, dated 28.01.2013, aforementioned, whereby his representation had been rejected, the review petitioner filed another writ petition, which gave rise to C.W.J.C. No. 20864 of 2013. When the later writ petition was dismissed taking note of

the facts as already indicated hereinbefore, the writ petitioner challenged, in L.P.A. No. 244 of 2015, the order, dated 03.12.2014, whereby C.W.J.C. No. 20864 of 2013, was dismissed.

A Division Bench of this Court, speaking through the learned Chief Justice, observed and held as follows:-

“We find that the appellant has resorted to gross misuse of law as and when it suits his conscience. When he was dismissed from service on the ground that his appointment was on the basis of forged papers, he filed C.W.J.C. No.5826/2002. Once he realized that he cannot establish that the appointment was proper, he withdrew the petition by specifically representing that he would pursue the remedy of filing a suit. Permission was accorded and the writ petition was dismissed as withdrawn. In case the appellant intended to pursue any remedy other than suit, it was open for him to seek modification of the order. Though he filed the review petition in this behalf, it was rejected. As a result, it was not open for him to pursue any remedy other than the suit.

Notwithstanding such position, the appellant filed a representation on 1.2.2011 before the Commissioner-cum-Secretary, Health Department. Obviously, because a representation was made, a reply was given taking the view that no relief can be granted to him. Cleverly enough, the appellant treated that as a fresh cause of action, virtually giving a burial to the earlier round of litigation and order of withdrawal passed at his instance.

We take serious exception to the gross misuse of process of law resorted to by the appellant. Accordingly, we dismiss the Appeal.

Though we intended to impose costs, we desist from doing it because the appellant is said to be

unemployed. Interlocutory application, if any, stands disposed of”.

(Emphasis is supplied)

We find no infirmity with the observations made, the conclusions arrived at and the decision rendered. It was made clear in the order under review, as can be clearly discerned, that though the Court intended to impose costs, it desisted from doing it so on the ground that the appellant, i.e., the review petitioner, was said to be unemployed.

Because of what have been discussed above, we do not find that the order, which the review petitioner seeks review of, calls for review.

In view of the above and in the interest of justice, the review petition is hereby dismissed.

(I.A. Ansari, ACJ)

(Anjana Mishra, J)

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