

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.160 of 2015

IN

Civil Writ Jurisdiction Case No. 16107 of 2010

=====

Hari Shankar Ram, S/O Late Phulwari Ram, Resident of vill-Arilla Raghunathpur,
P.O-Saraon, P.S-Dinara, District-Rohtas

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner to Government, Department of Health, Bihar, Patna.
2. The Director-in-Chief, Health Services, Bihar, Patna.
3. The District Magistrate, Rohtas at Sasaram
4. The Civil Surgeon-cum-Chief Medical Officer, Rohtas at Sasaram
5. The Medical Officer I/C Primary Health Centre Dinara, P.O+P.S-Dinara, Distt.-Rohtas

.... Respondents

=====

Appearance :

For the Appellant : Mr. Abhay Kumar Singh, Advocate
Mr. Bharat Bhushan, Advocate

For the Respondents : Mr. D.K. Sinha, A.A.G.2
Mr. Biresh Kumar Sinha, A.C. to A.A.G.-2

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 23-02-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Judge of this Court on 24th of November, 2014 whereby the writ petition filed by the appellant claiming regularization remained unsuccessful.

The appellant was appointed on daily wages on 5th January, 1989 by the Superintendent, State Vaccine Institute, Namkum, Ranchi. The services of the appellant were terminated on 07.03.2003 (Annexure-2) on the ground that he has been appointed



after prohibition to make appointment on daily wages was imposed on 1st of August, 1985. It is thereafter, the appellant filed a writ petition before this Court wherein, there was an interim order against the termination of his service. Such interim order continued to be in force for sufficiently long period. It is thereafter, the petitioner filed a writ petition before this Court claiming regularization of his service which writ petition has been dismissed by the order impugned in the present appeal.

The learned Single Judge has held that the appointment of the appellant was found to be illegal by an order dated 09.08.2010 by one man Enquiry Committee presided over by Hon'ble Mr. Justice Uday Sinha (Retd.). It has been found that such an illegal appointment of the appellant runs counter to the Supreme Court judgment in case of *State of Karnataka Versus Uma Devi*, reported in 2006(2) PLJR (SC) 363.

Learned counsel for the appellant has vehemently argued that the reasons for termination of the service was his appointment after the cut off date, but such cut off date was extended by the Circular dated 10th May, 2005 (Annexure-3). Thus, the sole reason for terminating the services of the appellant no longer survives.

The one man Enquiry Committee has examined the

nature of appointment and has, *inter alia*, found that the Civil Surgeon is the appointing authority and the Regional Deputy Director (Health) is not part of selection process, nor did have the power to make appointments.

Since the appointment of the appellant has been found to be illegal and not made by the competent authority, therefore, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present appeal.

The Letters Patent Appeal thus stands dismissed.

(Hemant Gupta, J)

(Navaniti Prasad Singh, J)

Sunil/-

N.A.F.R.

U			
---	--	--	--