

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.496 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 2723 of 2011**

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1. Mohammad Ali, Son of Sri Faujdar Mian, Resident of Village- Singhauta Bangra (Maharajganj), District- Siwan
 2. Ramjee Prasad, Son of Late Mahadeo Sah, Resident of Village- Barharia, P.O.- Barharia, District- Siwan

.... Appellant/s

Versus

1. The State of Bihar through the Commissioner-Cum-Secretary, Water Resources Department, Government of Bihar, Patna
2. The Executive Engineer, Saran Division, Gandak Project Maharajganj, District- Siwan
3. The Under Secretary, Water Resources Department, Government of Bihar, Patna
4. The Additional Secretary, Department of Labour Employment, Government of Bihar, Patna
5. The Assistant Labour Commissioner-Cum-Settlement Officer, Siwan

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dhirendra Nath Jha, Advocate.
Mr. Sanjay Kumar Singh, Advocate.
For the Respondent/s : Mr. Manoj Kumar Ambastha, S.C. 26
Mr. Subodh Kumar, A.C. to S.C. 26

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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: 06-09-2016

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 7th of August, 2012 in C.W.J.C. No. 2723 of 2011 whereby, a writ application filed by the appellants for quashing of an order passed by the Assistant Labour Commissioner-cum-Settlement Officer, Siwan to

agitate the issue of termination under the provisions of Industrial Disputes Act, 1947 (hereinafter referred to as “the Act”) was declined in view of the decision of this Court as well as of the Hon’ble Supreme Court.

3. The appellants were engaged on daily wages. Their services were terminated and on a Reference under Section (10)(i)(c) of the Act, the Labour Court passed an Award dated 22nd of May, 1993 of reinstatement with full back wages in view of the fact that their services were terminated without complying with the provisions of Section 25F of the Act. Such Award of the Labour Court was challenged by the State before this Court in C.W.J.C. No. 9763 of 1994 (State of Bihar & Anr. Vs. Presiding Officer and others). The writ application was allowed partly when the back wages were ordered to be paid from the date of the Reference. The said order has attained finality.

4. The appellants thereafter moved an application for regularization of their services, which claim was declined by the Deputy Secretary, Water Resources Department on 3rd of February, 1996 and also by the Executive Engineer, Saran Canal Division, Gandak Project, Maharajganj on 31st of March, 1996. The challenge to the said claim remained successful before the learned Single Bench in C.W.J.C. No. 12520 of 1996 (Mohammad Ali and others Vs. The



State of Bihar & others) vide order dated 25th of June, 1998 when the said writ application was allowed. But the said order was set aside in Letters Patent Appeal No. 891 of 1998 (The State of Bihar and others Vs. Mohammad Ali and others) vide order dated 17th of July, 2007. The subsequent Special Leave Petition No. 11183 of 2007 before the Supreme Court was withdrawn when the following order was passed:-

“The Special Leave Petition is allowed to be withdrawn. If at all the petitioners have any other remedy in law, they may invoke that remedy. We express no opinion on that.”

5. It is thereafter, the appellants again raised a dispute of termination of their services that without complying with the provisions of Section 25F of the Act, their services have been terminated. It is request of reference which was declined by the Assistant Labour Commissioner on 12th of September, 2009.

6. We have heard learned counsel for the parties and find no merit in the present Letters Patent Appeal.

7. The dispute regarding termination of the services was decided in favour of the appellants by the Labour Court vide his order dated 22nd of May, 1993. The issue of back wages was modified in C.W.J.C. No. 9763 of 1994 vide order dated 6th of September, 1995. Once the issue of retrenchment on account of violation of Section 25F of the Act has attained finality, the appellants cannot be permitted to raise dispute regarding termination of their services for

violation of Section 25F of the Act again. The subsequent claim of regularization in the regular Establishment in a regular pay-scale was raised. The said claim was allowed by the learned Single Bench but set aside by the learned Division Bench in Letters Patent Appeal. The Special Leave Petition was dismissed. Thus, the question of retrenchment has attained finality way back in the year 1995 and that of regular pay-scale when the appeal was withdrawn in the year 2007. The appellants cannot be permitted to re-agitate the same issues again.

8. The observation of the Hon’ble Supreme Court in a Special Leave Petition filed against an order in Letters Patent will not confer any fresh cause of action to claim the same relief which stands decided in the earlier round of litigation. We do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra court appeal.

9. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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