

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.486 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 10676 of 2013
Along with
Interlocutory Application No. 2197 of 2015

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Badrulijama, Son of Shri Mahmad Mokim, Resident of Naya Tola, Ganj No. 1
Indira Chowk, Betiah (West Champaran)

.... Appellant/s

Versus

1. The State of Bihar through the Commissioner - Cum - Secretary, Department of Health, Medical Education and Family Welfare, Government of Bihar, Patna
2. The District Magistrate - Cum - Collector, Betiah, West Champaran
3. The Additional Collector, Establishment, Betiah, West Champaran
4. The Superintendent, M.J.K. Hospital, Betiah, West Champaran
5. The Registrar, M.J.K., Hospital, Betiah, West Champaran

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Praveen Kumar, Advocate.

For the Respondent/s : Mr. Rajesh Kumar Sinha, AC to GP-25

Mr. Gopi Jha, AC to GP-25

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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: 19-05-2016

Re.: Interlocutory Application No. 2197 of 2015

The application is for condonation of delay of 22 days in
filing of the appeal.

2. For the reasons mentioned in the application, we find that
sufficient cause is made out for condonation of delay. Consequently, the
delay of 22 days in filing of the appeal is condoned.

3. Interlocutory Application stands disposed of.

Re.: Letters Patent Appeal No. 486 of 2015

The challenge in the present Letters Patent Appeal is to an

order dated 14.10.2014 passed by the learned single Bench in CWJC No. 10676 of 2013, whereby claim of the appellant for regularization in service was dismissed.

2. The appellant had earlier filed writ application i.e., CWJC No. 1601 of 2008, which was decided on 21.06.2011 with a direction to the respondents to decide the representation of the appellant. The appellant has claimed that he has worked in the hospital since 02.11.1998 as Class-IV employee, but he has not been paid salary for the period he has worked for the hospital. Such representation was decided on 04.01.2012, wherein it was found that the appellant has worked for 173 days, but the amount of Rs. 17300/- as wages for the said period, has not been paid. Therefore, there was a direction to pay the said amount whereas while considering the claim of regularization, reference was made to Bihar Government Circular dated 16.03.2006, which contemplates that those daily wagers who are working prior to 11.12.1990 and have worked for 240 days, are entitled to be considered for regularization. It was found that the appellant has not worked for 240 days prior to 11.12.1990. It was also found that the appellant has worked in the Blood Bank under Red Cross Society which is a private society and the benefit of such service cannot be given to the appellant.

3. Learned counsel for the appellant contends that he has worked continuously from his initial date of appointment on 16.01.1987. However, there is no document to show that he worked continuously, except Annexure-1, which shows that he was appointed on daily wages

purely on temporary basis on 16.1.1987. Annexure-2 is a panel list of the year 1991-92. The name of the appellant appears at sl. No. 32. Such list does not show that the appellant was engaged prior to 1990. All other documents produced by the appellant pertain to the year 1996-98.

4. It is not the case of the appellant that the policy of regularization, as referred to in the impugned order does not apply in his case. Therefore, as per policy of regularization, as referred in the impugned order, the appellant does not satisfy any of the parameters of the said policy. There is no satisfactory evidence to rebut the finding recorded in the representation, that the appellant had not worked prior to 1990 and for 240 days.

5. In view thereof, we do not find any error in the order passed by the learned single Bench which may warrant interference in the present Letters Patent Appeal. It is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/P.Kumar

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