

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.92 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 7331 of 2011**

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Kishor Kumar, Son Of Shri Hem Narayan, At/P.O. - Bangaon, Tole Behta, Police Station - Bangaon, District - Saharsa

.... Appellant

Versus

1. The State Of Bihar
2. The Principal Secretary, Department Of Health, Govt. Of Bihar, Patna
3. The Director-In-Chief, Health Services, Govt. Of Bihar, Patna
4. The Regional Deputy Director, Health Services, Darbhanga Division, Darbhanga
5. The Civil Surgeon-Cum-Chief Medical Officer, Darbhanga, Dist. - Darbhanga
6. The Civil Surgeon-Cum-Chief Medical Officer, Madhubani, Dist. - Madhubani

.... Respondents

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Appearance :

For the Appellant/s : Mr. Anil Kumar Jha, Sr. Advocate
Mr. Santosh Kumar Verma, Advocate

For the Respondents : Mr. Mrigendra Kumar, AC to GA 11

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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: 05-04-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Judge on 12th February, 2013 in CWJC No. 7331 of 2013, whereby termination of the service of the appellant with effect from 09.12. 1999 was not interfered with.

The appellant was appointed as Basic Health Worker in the office of Civil Surgeon, Madhubani on 31.12.1983. His service was ordered to be terminated on 22nd September, 1999 (Annexure 4) for the reason that appointment order was to be issued in the name

of one Tej Narayan Jha, whereas the appointment has wrongly been issued to the appellant. On the basis of such revelation the order of termination was passed on 09.12.1999.

The petitioner-appellant filed writ application bearing CWJC No.417 of 2009 which was allowed by order dated 06.10.2009 along with CWJC No. 6575 of 2009. Being aggrieved, the State of Bihar preferred an appeal bearing LPA No. 1628 of 2009 which was disposed of and the matter was remitted to Hon'ble Mr. Justice Uday Singh, One-man Commission, to consider the claim of the petitioner-appellant. The said One-man Enquiry Committee considered the matter and rejected the claim of the appellant on 22.11.2010. The writ petition against the said order was dismissed by the order impugned in the present appeal.

Learned counsel for the appellant has vehemently argued that the reason of termination was not lack of training but for the fact that the appointment letter was not meant for the appellant but for one Tej Narayan Jha. It is pointed out that in fact there was no mistake as is communicated by the Civil Surgeon-cum-Chief Medical Officer, Madhubani, on 19.10.2000 to the effect that it was misreading of the letter of appointment as that letter of appointment was rightly issued to Kishore Kumar. However, we find that such communication is inter-departmental communication and no letter

was ever issued to the appellant in pursuance of such communication. Therefore, no right is accrued to the appellant on the basis of such inter-departmental communication.

The Commission has not examined the question as to whether the appellant was appointed in place of Tej Narayan Jha. It has observed that the appellant was not found to be qualified for appointment. In view of the finding recorded by the Enquiry Commission that in the absence of basic qualification, the appellant should not have been appointed. Such appointment has rightly been withdrawn on 09.12.1999.

We do not find any error in the order of learned Single Judge which may warrant any interference in the present appeal.

The appeal is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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