

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.375 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 12732 of 2013**

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Surya Narayan Kumar, son of Late Bhogi Lal Yadav, resident of village-Naua Wakhar, P.S. Kisanpr, District-Supaul.

.... Petitioner- Appellant/s

Versus

1. The State of Bihar.
2. The Secretary, Industry Department, Government of Bihar, Patna.
3. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan, Patna.
4. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Bela, Darbhanga.

.... Respondents- Respondent/s

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Appearance :

For the Appellant : Mr. Vijay Kumar Singh, Advocate

For the Respondents : Mr. Rajiv Ranjan Prasad, Advocate
Mr. Nilanjan Chatterjee, Advocate

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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: 05-08-2016

The order dated 26th September, 2013 is subject matter of challenge in the present Letters Patent Appeal.

2. The appellant claims appointment on compassionate ground after the death of his father in harness on 6th of March, 2010. The claim of the appellant has been declined for the reason that in terms of BIADA (Financial Service and Technical) Regulations, 2007, there is no provision of appointment on compassionate ground.

3. It is submitted that prior to 2007, there was provision

for appointment on compassionate ground, but with the promulgation of Regulations as mentioned above, the Scheme for appointment on compassionate ground is not in force in the BIADA, i.e. respondent herein.

4. Learned counsel for the appellant refers to an order passed by a Division Bench of this Court on 20th February, 2008 in CWJC No.1991 of 2008 (Daroga Rai Vs. The State of Bihar & Ors.), whereby, this Court has, *inter alia*, ordered that no termination will take effect in pursuance of the provision made under paragraphs 1.2 and paragraph 1.2.1 of the impugned Regulations. The said order dated 20th February, 2008 read as under:

“This application is admitted for hearing.

Issue notice to the respondents under registered cover with A/D for which requisites etc. must be filed within one week failing which this application shall stand dismissed without further reference to a Bench.

In the meantime, no termination will take effect in pursuance of the provision made under paragraphs 1.2 and paragraph 1.2.1 of the impugned Rules.”

5. The relevant extract from the Regulations as finds mention in the above said order read as under:-

“1.2 These Regulations shall apply to all the employees of BIADA as also the employees on deputation (except otherwise provided to BIADA) to the extent that they are not in contravention of the terms and conditions of their deputation/contract to BIADA provided, however, that the Authority may by resolution duly passed any for reasons of exigencies and in the interest of BIADA exclude any class of

employee or post from application of these Regulations.

Rule 1.2.1: All the employees on contract or deputation shall sign contract as applicable.”

6. The order dated 20th of February, 2008 is to the effect that no termination will take effect in pursuance of the provision made under paragraphs 1.2 and paragraph 1.2.1 of the impugned Regulations, but the appellant herein is claiming appointment on compassionate ground and is not a case of termination of services.

7. Admittedly, there is no provision after the promulgation of 2007 Regulations for appointment on compassionate ground. The appointment on compassionate ground is a matter of policy. Since there is no such policy, the general Rule that all public posts should be filled up after giving opportunity to all eligible candidates is the one which will be applicable.

8. In view of the said fact, we do not find any error in the order passed by the learned Single Bench which warrants interference in the present intra court appeal. The Letters Patent Appeal is dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

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