

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.599 of 2014  
Arising out of  
Civil Writ Jurisdiction Case No. 12653 of 2013**

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Dinesh Kumar Pandey, Son of Late Braj Nandan Pandey, R/O Village Balwa, Po-Damodarpur, P.S.-Pipra, District- East Champaran, at present posted at Chakiya Range of Forest Department Peon/Cattle Guard/Forest Guard.

.... .... Appellant/s

Versus

1. The State of Bihar through the Principle Secretary, Forest Department, Bihar, Patna

2. The Principle Secretary, Forest Department, Bihar, Patna

3. The Principal Chief Conservator of the Forest, Bihar, Patna

4. The Regional Chief Conservator of the Forest, Muzaffarpur

5. The Conservator of Forest, Siwan

6. The Divisional Forest officer, East Champaran, Motihari

7. The Range officer, Chakiya, East Champaran, Motihari

8. The District Magistrate, East Champaran, Motihari

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Sharda Nand Mishra, Advocate.

For the Respondent/s : Mr. MN.H.Kha, SC-1.

Mr. Md. Irshad, AC to SC-1.

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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: 20-09-2016**

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 on 11.02.2014 whereby the writ application filed by the appellant for quashing of the order

dated 17.04.2013 passed by the Divisional Forest Officer, Motihari, rejecting the claim of the appellant for regularization of service remained unsuccessful.

3. The appellant was appointed as Cattle Watcher in the year 1988 on daily wage basis. He continued to work as daily wager but later sought regularization of his services in the light of the judgment of the Hon'ble Supreme Court in the matter of Secretary, State of Karnataka v. Umadevi (3), (2006) 4 SCC 1.

4. The claim of the appellant has been considered by the Divisional Forest Officer, Motihari on 17.04.2013. It has been held that the services of the appellant are not entitled to be regularized. It was found that there no sanctioned post was available at the time of his engagement nor such post even has been sanctioned now. The learned Single Bench has not interfered with the order so passed.

5. A perusal of the order passed by the learned Single Bench shows that there was no sanctioned post of Cattle Watcher at the time of engagement of the appellant, neither such post has been sanctioned now. No procedure was followed for engaging the appellant on daily wages and, thus, violation of Articles 14 and 16 of the Constitution of India is made out. Learned Single Bench has referred to the judgment of the Full Bench of this Court in the case of Ram Sevak Yadav vs. The State of Bihar, 2013(1) PLJR 964, wherein

the judgments of the Hon'ble Supreme Court in the case of Uma Devi (supra) and of, The State of Karnataka v. M.L.Kesari, (2010) 9 SCC 247 were considered and explained. The appellant does not satisfy the parameters of regularization as laid down by the Full Bench of this Court in the case of Ram Sevak Yadav (supra).

6. In view of the aforesaid, we do not find any merit in the present Letters Patent Appeal. It is, accordingly, dismissed.

**(Hemant Gupta, J)**

**(Ahsanuddin Amanullah, J)**

Sujit/-

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