WEB COPY NOT OFFICIAL

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.246 of 2016
IN
Civil Writ Jurisdiction Case No. 22382 of 2014

==========

Basant Kumar Sinha, Son of Late Gupteshwar Prasad, Resident of Village-Mahuabag, P.S. Rupaspur, District-Patna

.... Appellant

Versus

1. The State of Bihar, through the Principal Secretary, Energy Department, Government of Bihar, Patna
2. Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
3. Principal, Law College, Samastipur Vidhi Mahavidyalaya, Samastipur
4. Chairman-cum-Managing Director, Bihar State Power Holding Company Ltd., Vidyut Bhawan, Bailey Road, Patna
5. Director (H.R.), Bihar State Power Holding Company Ltd., Vidyut Bhawan, Bailey Road, Patna
6. General Manager (H.R.), Bihar State Power Holding Company Ltd., Vidyut Bhawan, Bailey Road, Patna
7. Sachchidanand Lal Karn, Law Advisor (Now retired working on contract), Bihar State Power Holding Company Ltd., Vidyut Bhawan, Bailey Road, Patna

.... Respondents

==========

Appearance :
For the Appellant : Mr. Amar Nath Singh,
Mr. Ram Prawesh Kumar
Mr. Ashok Kumar, Advocates
For Respondent No.1 : Mr. Nadim Seraj, GP 5
Mr. Shailesh Kumar, AC to GP 5
For Respondent No.2 : Mr. Ajay Bihari Sinha, Advocate
For the Company : Mr. Ranjit Sinha, Advocate

==========

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)
Date: 22-11-2016

Heard learned counsel for the appellant and learned counsel for the respondents.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 15th of December,

2015 in CWJC No. 22382 of 2014 whereby the writ of quo warranto sought against the appointment of respondent no.7 as Deputy Law Advisor remained unsuccessful.

3. The entire claim of the appellant is based on Annexure-10 said to be the Bihar State Electricity Board Legal Service Cadre Rules, 1996. The appellant also referred to Annexure-15 which contemplates that period of six years experience is required for appointment to the post of Deputy Law Advisor from the post of Law Officer.

4. Learned counsel for the respondents points out that the finding recorded by the learned Single Bench is that Annexure-10 is not the statutory rules and they were never published in the official Gazette. In absence of statutory character of the Rules, Annexure-10 cannot be said to be the Rules which govern the appointment and promotion to the post of Law Officer and Deputy Law Advisor. In view of the finding recorded, the entire argument raised by the learned counsel for the appellant cannot be sustained.

5. We do not find any error in the order of the learned Single Bench which may warrant any interference by this Court. The Letters Patent Appeal is accordingly dismissed.

6. This is apart from the fact that the respondent no. 7 whose appointment was the subject matter of challenge in the writ

petition has attained the age of superannuation and thereafter he has been re-engaged on contract basis. Since he is not working on regular and substantive basis, the writ of quo warranto cannot be granted at this stage.

7. In view of the above, the present Letters Patent Appeal is dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

B.T/Ibrar

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.11.2016
Transmission Date	N.A.