

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.753 of 2015

In

Civil Writ Jurisdiction Case No. 3232 of 2015

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Ramashish Sahu. S/o Late Anandi Sahu. R/o Shahpur, P.O.- Shahpur, P.S.-
Muffasil, District - Begusarai, at present resident of House of Purnendu
Kumar Advocate, Bekapur Near Mayur Chowk, P.S.- Kotwali, District -
Munger.

.... Appellant

Versus

1. The State of Bihar through Principal Secretary, Transport Department,
Bihar, Patna.
2. Principal Secretary, Transport Department, Bihar, Patna.
3. Regional Transport Authority, Munger.
4. Divisional Commissioner, Munger.
5. Joint Commissioner cum Secretary, Regional Transport Authority,
Munger.
6. Additional Secretary, Transport Department, Bihar, Patna.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Dharendra Nath Jha, Advocate

For the Respondent/s : Mr. Nasim Yahya, G P 13

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

3 15-01-2016 The appellant, in the present appeal, under

Clause 10 of the Letters Patent of the Patna High Court, is
aggrieved by the order, dated 03.03.2015, passed by a
learned single Judge in CWJC No. 3232 of 2015, whereby his
application, made under Article 226 of the Constitution of
India, has been dismissed. The appellant had challenged, in
his said writ application, the order, dated 08.01.2015, passed

by the Additional Secretary, Transport Department, Government of Bihar, whereby his re-engagement, after his retirement, came to be terminated.

2. Facts are not in dispute. Initially, the appellant was appointed as a Lower Division Clerk in the District Transport Office, Darbhanga, in the year 1978 and he retired from the service, upon attaining the age of superannuation from the post of Upper Division Clerk, on 31.01.2014. After his superannuation, the appellant was re-appointed, on *contractual basis*, by order, dated 24.02.2014, issued under the signature of the Principal Secretary, Transport Department, Government of Bihar. Pursuant to the said order of appointment, the appellant joined on 26.02.2014. However, by a communication, dated 09.01.2015, addressed to the appellant, issued under the signature of the Additional Secretary, Transport Department, the appellant was informed that his *contractual appointment* was being terminated in view of the information received from the Commissioner, Munger Division, Munger, to the effect that the appellant was not discharging his duties properly. The appellant challenged the said communication, dated 09.01.2015, by filing a writ application, under Article 226 of the Constitution of India, giving rise to CWJC No.3232 of 2015, which came to be dismissed by the learned single

Judge by the order under appeal.

3. Mr. Dharendra Kumar Jha, learned counsel for the appellant, has submitted that the impugned communication is stigmatic in nature, issued without giving any opportunity of hearing to the petitioner and is, therefore, hit by the principles of natural justice. He has submitted that the learned single Judge has not gone into this aspect of the matter. He has further submitted that the engagement of the appellant after his superannuation, on *contractual basis*, was for a period of two years, which could not have been altered without valid reason and without giving the appellant an opportunity of being heard.

4. Mr. Nasim Yahya, learned Govt. Pleader No. 13, appearing on behalf of the respondents-State of Bihar and its officials, has opposed the contentions and submitted that the appellant did not have any right to hold the post and the learned single Judge has rightly rejected the writ application.

5. We have perused the materials on record and have given our anxious consideration to the rival submissions advanced on behalf of the parties. On bare perusal of the order, dated 24.02.2014, through which the appellant was engaged on *contractual basis* after his superannuation, we notice that it was specifically mentioned

in the said communication that the engagement could be terminated without prior notice if his service was not found satisfactory. The appellant, while accepting the terms of the engagement on contractual basis, had accepted this clause also. In our opinion, the communication, dated 09.01.2015, through which the engagement of the appellant, on contractual basis, came to be terminated, cannot be treated to be stigmatic in nature. The appellant had no indefeasible right to hold the post. It was one of the terms of the contract that the engagement could be terminated without any prior notice if the services were not found satisfactory.

6. In the circumstances indicated above, we do not find any error, legal or factual, in the order under appeal.

7. This appeal, therefore, does not merit admission and is, accordingly, dismissed.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

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