

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 1134 of 2013

IN

Civil Writ Jurisdiction Case No 2997 of 2011

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Ramesh Prasad S/O Late Harihar Prasad Resident Of Mohalla- Gewal Bigha,
Munni Masjid, P.S.- Civil Lines, District- Gaya

.... Appellant/s

Versus

1. The State Of Bihar, Through the Secretary, Health Family Welfare and Medical Education, New Secretariat, Patna
2. The Director in Chief, Health Services, New Secretariat, Patna
3. The Civil Surgeon cum Medical Officer, Gaya
4. The In Charge Medical Officer, Primary Health Centre, Mohanpur, District- Gaya
5. The Additional Chief Medical Officer, Gaya, District- Gaya

.... Respondent/s

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For the Appellant/s : M/s Shiv Kr & Ravindra Kr Sinha, Advocates

For the Respondent/s : Mr Vivek Prasad, GP 7 with
Mr Sanjay Kr Ojha, AC to GP 7

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 23-09-2016

Heard the parties and with their consent, this appeal is
being disposed of at this stage itself.

2 This intra-Court appeal arises from judgment and
order dated 10.01.2013 passed in *CWJC No 2997 of 2011* (Ramesh
Prasad –Versus- State of Bihar & Others) whereby the writ petition
filed by the petitioner-appellant for quashing of the order of the
Scrutinizing Committee, whereby the Committee, having found the
appointment of the petitioner not valid, refused regularization.



3 The writ petitioner claimed that he was appointed by the Civil Surgeon –cum- Chief Medical Officer, Gaya on 02.05.1986 as a Cholera Worker. At no point of time, the said appointment letter or copy thereof was produced in any proceeding. Immediately on such appointment being made, on 11.08.1986, he was transferred to Primary Health Centre, Mohanpur whereby writ petitioner joined in the office of Incharge, Medical Officer, Mohanpur. Apparently, questions were asked with regard to validity of his appointment and not being satisfied, on 03.03.1987, the Civil Surgeon –cum- Chief Medical Officer, terminated his appointment. Against this termination, as made in 1987, petitioner filed a writ petition being CWJC No 577 of 1991, which was allowed on the technical ground that termination having been effected without hearing, the order of termination was bad. Thereafter, again notices were issued to the petitioner and after hearing him, on 30.12.1999, petitioner's services were again terminated on the ground that there was no validity in his appointment. This was again challenged by the writ petitioner in *CWJC No 2199 of 2000* which was heard with large number of analogous writ petitions and appeals where matter was referred to Committee to scrutinize and take decision in accordance with the findings of the Apex Court in the case of *Uma Devi*. Again, the Committee has found the appointment to be a forge appointment. It is this, that is challenged in the writ proceedings.

4 From the sequence of events noted above, it would be

seen that within a year of his appointment, in the year 1986, his appointment was put under serious cloud. He was terminated. In none of the proceedings, writ petitioner was able to show as to whether any advertisement was issued, whether any Selection Committee was made, whether there was any sanctioned post on which he was appointed and where was his appointment letter? It is only belatedly, claims were made that he had submitted the original appointment letter in the office and that the entire records in relation to his appointment had been stolen by someone.

5 In our view, where the petitioner cannot show that there was any sanctioned post on which the Civil Surgeon had the authority to appoint, the vacancy being there was advertised, a selection process was carried and he was substantively appointed. Accordingly, in absence of these events, though some inferential facts and events are there, in this jurisdiction, it cannot be construed that the writ petitioner was duly appointed and ought to be regularized.

6 We, therefore, find no reason to disagree with the order of the learned Single Judge. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

M.E.H./-

(Nilu Agrawal, J)

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