

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.170 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 2139 of 2011
Along with
Interlocutory Application No.614 of 2016**

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Siyawar Sharan Rao, S/O- Late Baidyanath Narain Rao, R/O Mohalla- Rajguru Chowk, P.S. Bettiah, District- West Champaran.

.... Petitioner- Appellant/s

Versus

1. The State of Bihar.
2. The Secretary-cum-Commissioner, Department of Registration, Excise & Prohibition, Govt. of Bihar, Patna.
3. The Excise Commissioner, Vikash Bhawan, Patna.
4. The Joint Commissioner of Excise, Vikash Bhawan, Patna.
5. The Collector, West Champaran, Bettiah.
6. The Superintendent of Excise, West Champaran, Bettiah.

.... Respondents-Respondent/s

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Appearance :

For the Appellant/s : Mr. Manoj Kumar Manoj, Advocate

For the Respondent/s : Mr. K. P. Gupta G. P.- X

Mr. Binod Kumar, A.C. to G.P.-X

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 02-12-2016

Re.: Interlocutory Application No.614 of 2016

The application is for condonation of delay of 07 days in filing of the present Letters Patent Appeal.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

Interlocutory Application stands allowed accordingly.



Re.: Letters Patent Appeal No.170 of 2016

The present Letters Patent Appeal is directed against an order passed by the learned Single Bench of this Court on 27th October, 2015 whereby, the claim of the appellant to regularize his service from 11th May, 1985 remained unsuccessful.

The appellant was engaged as a daily wager on 11th May, 1985 on a temporary post of *Daftari*. Since he continued to work on the said post, he filed a writ application bearing CWJC No.5927 of 1993 before this Court which was decided on 22nd September, 2005. This Court directed the Secretary, Department of Excise, Government of Bihar to consider the case of the appellant for regularisation on the post of *Daftari* keeping in view the fact that he is continuing to work as *Daftari* on daily wages since 1985. It is in pursuance of such an order, his service was regularised on 18.02.2006. The claim of the appellant before the Writ Court was that he should have been regularised from the date of his initial engagement, which claim has not been accepted by the learned Single Bench.

The appellant was engaged on daily wages on 11th May, 1985. His claim for regularization in service could have been considered after completing substantial time on daily wages. It is the said principle which led this Court to pass an order to consider the claim of the appellant for regularisation. His services have been



regularized with effect from 18th February, 2006.

We do not find that such appointment can be regularized from the date of initial engagement since the initial appointment was not made following the due procedure of public advertisement giving opportunity to all the eligible candidates to apply to be considered for appointment to the post.

In view thereof, we do not find any error in the order passed by the learned Single Bench, which may warrant interference in the present intra-court appeal. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

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AFR/NAFR	N. A. F. R.
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