

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

**Letters Patent Appeal No.1195 of 2013  
IN  
Civil Writ Jurisdiction Case No. 5482 of 2007**

- =====
1. Mathura Singh S/O Late Ram Kishan Singh Resident Of Vill. - Dakshin Darwaza, P.S. Civil Line, Distt. - Gaya
  2. Mohd. Nasim S/O Late Mohd Hasim Mohalla - Sarai Road, Near Jama Majid, P.S. Kotwali, Distt. - Gaya
  3. Chhotan Pd. S/O Late Doman Rao Mohalla - Bahunar Chaura, P.S. Civil Line, Distt. - Gaya

.... .... Appellant/s

Versus

1. The State Of Bihar
2. The Labour Commissioner, Department Of Labour Employment And Training, Govt. Of Bihar, Patna
3. The District Magistrate, Gaya, District - Gaya
4. The Presiding Officer, Labour Court, Dalmianagar, Dehari On Sone, District - Rohtas
5. 5. The Bihar Cinema Karamchari Sangh, Gaya, Representing The Workmen Through Its General Secretary, Amrit Singh At Present Residing At Aliphistan Cinema, Gandhi Maidan, P.S. Gandhi Maidan, District - Patna
6. M/S Prem Talkies Through Its Management Represented By Sushila Devi Wife Of Late Prahlad Rai Khandelwal, Shaheed Road, Gaya, P.S. Kotwali, Distt. - Gaya A/P Resident Of Mohalla - Lakhibagh, P.S. Mufasil Gaya, Distt. - Gaya

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Sharda Nand Mishra,  
Mr. Dhananjay Kr. Gupta  
Mr. Deepak Kumar, Advocates  
For the Respondent/s : Mr. Sushil Kumar Singh, AC to AAG-10

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**CORAM: HONOURABLE THE CHIEF JUSTICE  
and  
HONOURABLE MR. JUSTICE SUDHIR SINGH  
ORAL JUDGMENT  
(Per: HONOURABLE THE CHIEF JUSTICE)**



**Date: 30-03-2017**

In the matter of an award passed by the Labour Court directing the employer to reinstate the appellant by virtue of the rights available under Section 25H of the Industrial Disputes Act, 1947 (for short 'the Act'), the learned Writ Court found that once the old establishment was closed, wound up and the employees were retrenched after granting them the benefit of Section 25F of the Act, when the establishment again commenced after purchase of it by a new employer after a few years, the question of re-employment under Section 25H of the Act with the new employer does not arise and finding the learned Labour Court to have misdirected itself in applying the provisions of Section 25H of the Act, in the facts and circumstances of the case, the learned Writ Court has interfered into the matter.

In doing so, the learned Writ Court has not committed any error warranting re-consideration. The benefit of Section 25H of the Act would be available to a workman who is to be re-engaged and re-employed by the same employer. Once the new employer takes over the establishment, there is no master-servant relationship. The question of re-establishment or re-employment of an already terminated employee would not arise and having considered all this, the learned Writ Court has refused to interfere into the matter. We



see no error in the same warranting re-consideration.

The appeal is, accordingly, dismissed.

**(Rajendra Menon, CJ)**

**(Sudhir Singh, J)**

K.C.jha/-

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