

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1403 of 2015
IN
Civil Writ Jurisdiction Case No. 16461 of 2014**

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Sudhansu Rai son of Prabhunath Rai, Resident of Village - Mirzapurr, P.S. - Janta Bazar, District Saran (Chapra)

.... Appellant

Versus

1. The Chairman -cum - Managing Director, National Projects Construction Corporation Ltd. Plot No. 67 - 68, Sector - 25, Faridabad (Hariyana).
2. The Chief Manager (HR) N.P.C.C., Ltd, Corporate Office, Plot No. 67 - 68, Sector - 25 Faridabad (Hariyana)
3. The Sr. Manager (P & A), National Projects Construction Corporation Ltd., Plot No. 67 - 68, Sector 25, Faridabad (Hariyana)
4. The Manager (H.R.) N.P.C.C. Ltd, Corporate Office, Plot No. 67 - 68, Sector 25, Faridabad (Hariyana).
5. The Zonal Manager, N.P.C.C., Ltd. NEZ (P.M.C.) Silchar House No. 2, 2nd Floor, Aaparajan Pally Sonai Road - 78806 (Assam)
6. The Zonal Manager, N.P.C.C., Ltd. Bihar Zone 15, I.A.S. Colony Kidwaipuri, Patna - 1
7. The Project Manager, N.P.C.C. Ltd. L.N.J.P Unit Nehru Chowk, Patel Bhawan, Krishnapuri, Nandlal Tola, Chapra (Bihar), Pin - 8413301
8. The Headmaster, High School Kolhuan, Sahajitpur, P.S. Baniapur, Saran

.... Respondents

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Appearance :

For the Appellant : Mr. Sanjay Kumar, Advocate
For the Respondents : Mr. Arun Kumar Arun, Advocate
Mr. Shailendra Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 10-01-2017

The Letters Patent Appeal is taken up along with the limitation petition. The delay of 113 days is condoned.

The appellant, who is a workman and was working as such as a Tradesman Grade-II (Turner) in National Projects Construction Corporation Ltd. A dispute arose with regard to his date



of birth and as a consequence thereof his date of superannuation. Certain evidence was pressed by him. However, the management, on the basis of the earlier entries, did not accept the date of birth suggested by the appellant on the basis of a school transfer certificate.

The learned single Judge came to a conclusion that taking into consideration the standing order which governs such issues and the status of the appellant, he falls within the definition of a workman and, therefore, remedy for him would lie under the Industrial Disputes Act and the forum created therein in terms of Section 10 of the Act.

The submission of learned counsel for the appellant that earlier he had approached the High Court and a direction was given for consideration is a good ground for the appellant not being relegated to the statutory forum of a Labour Court under the Industrial Disputes Act.

Article 226 of the Constitution of India is a discretionary remedy. Merely because certain indulgence was shown to the appellant by trying to find a via media for early resolution of the dispute does not create a right in appellant for maintaining a writ petition.

Since the finding of the learned single Judge is based on



law of the land duly supported by rationale and reasoning provided even by certain decisions of the Hon’ble Supreme Court, which have been taken note of and relied upon in the impugned judgment, the Court comes to a considered opinion that the decision of the learned single Judge does not suffer from any legal vice.

In view of the same the impugned judgment and order is not required to be interfered with.

Letters Patent Appeal, therefore, is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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