

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.873 of 2013

In

Civil Writ Jurisdiction Case No.12695 of 2010

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1. The State of Bihar
 2. The Secretary, Minor Irrigation Department, Bihar, Patna-Cum-Chairman, Water Development Resources, Patna
 3. Project Co-Ordinator, Tube Well Division, Patna
 4. Managing Director, Water Development Corporation, Bihar, A-1, Daroga Prasad Rai Path, Serpentine Road, Patna
 5. The Engineer-in-Chief, Tube Well Prabhag, Vishwasaraiya Bhawan, Patna
 6. The Chief Engineer, Tube Well Prabhag, Muzaffarpur
 7. The Superintending Engineer, Tube Well Circle, Damu Chak, Muzaffarpur
 8. The Executive Engineer, Tube Well Division, Bettiah, West Champaran

... .. Appellant/s

Versus

Birendra Prasad, Son of Late Ram Chandra Prasad, Resident of Village-Dhankutwa, P.S.- Balthar, District- West Champaran, at present posted at Tube Well Operator, Water Development Corporation, Daroga Prasad Rai Path, Serpentine Road, Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. S.D. Yadav, AAG-IX
		Mr. Prem Ranjan Kumar, A.C. to AAG-IX
For the Respondent/s	:	Mr. Satish Kumar Sinha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-11-2017

Having heard learned counsel for the parties, we find that in an Industrial dispute referred for adjudication the Presiding Officer, Labour Court, Motihari in Reference Case No. 14 of 1994 found that the respondent workman was illegally retrenched without complying with the mandatory provision of



Section 25F (b) of the Industrial Disputes Act and, therefore, directed for his reinstatement with half back wages. The Award was passed on 10.09.1998 and when the Award had attained finality and it was not implemented, the matter came to this Court on two occasions at the instance of the respondent workman and finally on 05.02.2009 in C.W.J.C. No. 4697 of 2001 an assurance was given by the then learned Additional Advocate General No. 3 that he has been instructed by the Secretary, Minor Irrigation Department to say that the Award of the Industrial Tribunal shall be implemented in toto and it is further seen that the respondent workman was reinstated with effect from 02.05.1984 vide order passed on 22.07.2009 by the Managing Director, Bihar Water Development Corporation. However, after his reinstatement when his services were again dispensed with by the Managing Director of the Corporation, the matter again came to this Court and this Court after considering various issues found that again the termination has been ordered illegally on the same grounds which were quashed by the Labour Court in the earlier Award and it was also found that the respondent workman's services have been dispensed with by a Corporation which was dissolved way back in the year 1986 and the learned Writ Court interfered into the matter and



from Paragraph 15 onwards for doing so the following reasons were recorded:-

“15. The other point racked up in the said office order is that the Corporation is existing as capsule organization to meet the remaining winding up requirement under the Companies Act, 1956 and it has neither any objective nor sanctioned post nor any budgetary support as the Corporation has been superseded as far back as in the year 1986.

16. It is quite strange that when the Corporation had been dissolved as far back as in the year 1986 what was the occasion of placing the service of petitioner in the said Corporation after the award of the Tribunal dated 10.09.1998 as well as the order of this court dated 05.02.2009. In view of the specific orders mentioned above it was the duty of the authorities to place the service of petitioner before any working department of the government, specially when the Corporation had already been merged with the Minor Irrigation Department where the petitioner was initially working.

17. In the said circumstances, this writ petition is allowed, the impugned letter dated 21.09.2010 and office order dated 22.10.2010 issued under the signature of Managing Director of the Corporation are hereby quashed and the respondents are directed to place the service of



petitioner in the Minor Irrigation Department with immediate effect not beyond one month from the date of receipt/production of a copy of this order.

18. It goes without saying that the petitioner will be entitled to full salary and emoluments from the date of award i.e. 10.09.1998 without any break till date and all the balance amount of salary and emoluments, which are unpaid, must be paid to the petitioner within three months from the date of receipt/production of a copy of this order. The petitioner will also be entitled to all the promotional and other benefits available to the petitioner considering him to be in continuous service.”

In our considered view apart from the fact that the Corporation in question is shown to have been dissolved with effect from 1986 once the grounds for termination which were already considered and answered against the petitioner Management in the Award passed by the Tribunal on 10.09.1998 then by the impugned order dated 21.09.2010 the Managing Director could not have terminated the service of the respondent workman.

The reasons that weighed with the learned Writ Court for interfering into the matter, in our considered view, are proper and we see no reason to make any indulgence into the matter. The termination being wholly unjustified, we see no



reason to interfere into the matter. The Letters Patent Appeal stands dismissed. Earlier stay stands vacated.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
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