

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.775 of 2017

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Deo Sharan Sah Son of Late Narad Sah, Resident of Village-Bhalhi, P.S.
Bathnaha District -Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Home (Police) Department, Government of Bihar,
Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Sitamarhi.
5. The Sub Divisional Officer, Sadar, Sitamarhi.
6. The Additional Collector, Sitamarhi.
7. The District Establishment, Deputy Commissioner, Sitamarhi.
8. The Officer-in-Charge, Bathnaha P.S. District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Birendra Kumar, Advocate
For the Respondent/s : Mr. S.K.Sharma, AC to AAG3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-09-2017

Delay of 47 days in filing of this appeal is condoned.

I.A. No. 3427 of 2017 stands allowed and disposed of.

Seeking exception to an order dated 9.2.2017 passed by the writ court in CWJC No. 1739 of 2015, this appeal has been filed under Clause 10 of the Letters Patent.

The appellant was appointed as Choukidar in the establishment of the District Magistrate, Sitamarhi. However, challenging an order dated 2.8.2013, rejecting his claim for



regularization and reinstatement, the writ petition in question was filed. Records indicate that earlier when action was taken for terminating the services of the appellant, he approached the Court by filing CWJC No. 1327 of 2012 and vide order as contained in Annexure-4 dated 27.2.2012 the matter was remanded back to the competent authority to examine as to whether appointment of the appellant is by following the due process of law or whether it is backdoor entry and if so action be taken in accordance with law.

We see that after the aforesaid order was passed on 27.2.2012 the case of the appellant was examined in detail and it was found that the appellant was appointed in an illegal manner, it was backdoor entry, no process of appointment known to law was followed and as the appellant's appointment was found to be illegal, the competent authority passed the order impugned in the writ petition dated 2.8.2013. The writ court also examined the matter and found that as the appellant was not appointed by following due process of law and as he was a backdoor appointee, no indulgence was made in the matter.

Having considered the contention advanced, we find that appellant's appointment falls in the category of illegal appointment as classified by the Supreme Court in the case of Secretary to the State of Karnataka Vs. Uma Devi: (2006) 1 SCC 1 and once the



employment or engagement falls in the category of illegal appointment, no benefit would accrue to the employee concerned and if taking note of these consideration, the writ petition stood dismissed, we see no reason to make indulgence into the matter.

The appeal is, accordingly, dismissed.

(Rajendra Menon, CJ)

spandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
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