

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1607 of 2013

IN

Civil Writ Jurisdiction Case No. 12326 of 2008

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Pradeep Rai, Son of Sri Ram Saran Rai, Resident of Shahganj (Benta), P.S. Benta
(Laheriasarai), District- Darbhanga

.... Appellant/s

Versus

1. The State of Bihar through the Commissioner, presently known as Principal Secretary Department of Health, Government of Bihar, Patna
2. The Director, Health Services, Government of Bihar, Patna
3. The Additional Director, Health Services, Government of Bihar, Patna
4. The Civil Surgeon-cum- Chief Medical Officer, Madhubani
5. The Deputy Development Commissioner, Madhubani
6. In-charge Medical Officer, Primary Health Centre, Jhanjharpur, District- Madhubani

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ugranath Mallik, Advocate

For the Respondent/s : Mr.

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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: 07-03-2017

Both the limitation petition as well as the appeal is required to be dismissed because a delay of almost two years in moving the appeal has not been satisfactorily explained in I.A. No. 8826 of 2013. Coming to the merits of the appeal even if the delay is ignored, the learned Single Judge has taken note of the facts pleaded by the appellant himself in the writ application that he was terminated way back on 10.07.1995 as a daily-wager. He challenged his removal by filing a writ application, CWJC No. 8699 of 1995 which was dismissed on 26.11.1995 and then



even his appeal was dismissed by the Division Bench. Now by innovation of law, he filed a fresh writ application pleading that his case for regularization should be reconsidered in the light of the Constitution Bench decision rendered in the case of Secretary, State of Karnataka Vs. Uma Devi (3) reported in 2006 (2) PLJR (SC) 363.

Such submission was also considered and negated keeping in mind the decision of the Apex Court rendered in the case of Secretary, State of Karnataka Vs. M.L.Kesari reported in (2010) 9 SCC 247 on the ground that person must complete ten years of service as on the date of Constitution Bench judgment, which was rendered on 10.04.2006. The appellant had been removed from service almost a decade back, therefore, the learned Single Judge refused to pass any order or grant any relief.

No legal infirmity has been committed by the learned Single Judge in dismissing the writ application. The appeal, therefore, is required to be dismissed along with the limitation petition. The same are dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

S.Pandey/-

AFR/NAFR	AFR
CAV DATE	NA
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