

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1737 of 2016

IN

Civil Writ Jurisdiction Case No. 12837 of 2012

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Ramjee Prasad, Son of Late Ramsharan Prasad, resident of Mohalla: Mahnudichak,
Rajendra Nagar, Road No. 10, P.S.- Kadamkuan, District- Patna-800016.

.... Petitioner / Appellant

Versus

1. The State of Bihar, through its Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
2. The Agriculture Prouction Commissioner, Govt. of Bihar, New Secretariat, Patna.
3. Sri Ashok Kumar Sinha, the then Agriculture Prouction Commissioner, Govt. of Bihar, New Secretariat, Patna at present Development Commissioner, Old Secretariat, Bihar, Patna.
4. The Deputy Secretary, Nivedan Samittee, Secretariat of Bihar Assembly, Patna.
5. The Director, Agriculture Department, Govt. of Bihar, New Secretariat, Patna.
6. The Joint Director of Agriculture, Patna Division, Mithapur Farm, Town & District- Patna.
7. Jai Prakash Thakur, son of not known, Sectional Officer, office of Director of Agriculture, New Secretariat, Patna.

.... Respondents / Respondents.

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Appearance:

For the Appellant/s : Mr. Abhay Kumar Thakur

For the Respondent/s : Mr. GP12.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 12-12-2017

Heard learned counsel for the appellant and learned
counsel for the State.

2. Writ Application of the appellant was dismissed by the
learned single Judge vide order dated 01.07.2016. Appeal has been
preferred against that order.

3. The cause of action for the appellant to file the Writ



Application was issuance of an order dated 30.11.2009 by the Joint Director of Agriculture, Patna Division, Patna by virtue of which the appointment of the appellant as a so-called Store Keeper in the Agriculture Department has been dispensed with. This annexure was Annexure-12 to the Writ Application.

4. It is the case of the appellant that he was appointed as a Store Keeper on 31.12.1987 after due process and procedure on the basis of the advertisement issued in the newspaper on 18.07.1985. However, his services were dispensed with on 01.07.1988.

5. The appellant represented himself to be a retrenched employee and came to be adjusted against a leave vacancy of one Awadhesh Kumar Singh, who had gone for accounts training. Obviously, since it was not a case of substantive appointment the petitioner was asked to leave when the permanent employee returned from his training.

6. From a reading of the impugned order along with Annexure-12 to the Writ Application, which is a reasoned order passed by the Joint Director of Agriculture, Patna, it is evident that the appellant was even initially engaged on a short-term-temporary basis and, that is why, his appointment dated 31.12.1987 ended on 01.07.1988. After almost 19 years on the basis of a story shown to the authorities that he was a retrenched employee, he came to be



accommodated on a leave vacancy.

7. Since in both the cases, the appointment was not of a substantive kind, therefore, the right of the appellant to claim that his services cannot be dispensed with is not founded on any substantive rule or fact which can support his cause. No due process and procedure had been followed even in the case of leave vacancy. In fact, that accommodation was also made because a Member of the Legislative Assembly raised a question on the Floor of the House and as a consequence thereof some kind of accommodation was made temporarily for other reasons, rather a right of the appellant to be so appointed.

8. The facts being so, no law comes to play in favour of the appellant. The findings of the learned single Judge given as above were cogent and valid reasons for him not to interfere, with the decision of the respondent authorities.

9. The appeal has no merit and it is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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