

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1007 of 2015

In

Civil Writ Jurisdiction Case No.1539 of 2015

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Rajendra Harijan son of Late Bongi Harijan , Resident of Village - Orhara,
Police Station - Rajoun, District - Banka

... .. Appellant/s

Versus

1. The State Bank of India through Chairman, Central Office, S.B.I. Madankama Road , Mumbai - 400021
2. Chief General Manager , S.B.I, West Gandhi Maidan , Patna - 800001
3. Branch Manager , S.B.I, Punsia, P.S.Rajoun , Dist - Banka.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Mritunjay Prasad Singh
For the Respondent/s : Mr. Sanjiv Kumar

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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 : 13-09-2017

The writ application of the present appellant was dismissed by the learned Single Judge vide order dated 26.02.2015. The Court had this to say :

“That being so, while this Court will have no difficulty in holding that the petitioner has no subsisting right for being regularized, the only remaining submission made by the learned counsel for the petitioner that someone alike him had been also regularized in past will definitely require at least a pleading to this effect but nothing is there on the record to support such plea. As a matter of fact learned counsel for the petitioner is having



some papers in his hand and wants this Court to look into the same. That, however, cannot be the way for improving the pleading. At this stage while this part of order has already been dictated learned counsel for the petitioner has prayed for adjournment to enable him to file a supplementary affidavit.

In the considered opinion of this Court this should have been made as a part of the pleading in the main writ application because filing of supplementary affidavit can be permitted only for bringing any subsequent event which has come into existence after filing of the writ application.

That being so, this application must fail and is, accordingly, dismissed.”

Appeal has been preferred against the said order. Counter affidavit was filed on behalf of the Bank denying any of the assertions that the appellant has worked as a daily wager. His services was, however, taken in bits and pieces for which requisite payment had been made to him but continuity of work and minimum number of days of work and years of work is not established.

On 30th of August, 2017, the Court granted yet another opportunity to the appellant to bring materials on record to establish his case. The status is no different than what it was



before the learned Single Judge. If that be so, there is difficulty for this Court to interfere with the order of the learned Single Judge because the situation which confronted the learned Single Judge also confront us. The order cannot be passed in vacuum and in absence of materials and evidence.

Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2017
Transmission Date	NA

