

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.138 of 2012

In

Civil Writ Jurisdiction Case No.14393 of 2011

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The Executive Engineer, Punpun Flood Protection Division, Patna City,
Patna.

... .. Petitioner-Appellant/s

Versus

1. The Irrigation Kamgar Union, Kedar Bhawan, Amar Nath Road, Patna - 1
2. Prem Shankar Sharma, S/O Sri Ramjee Sharma, Resident Of Village - Babu Mohalla , P.O. & P.S. Mahnar, District – Vaishali.

... .. Respondents-Respondent/s

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Appearance :

For the Appellant/s :

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-09-2017

Seeking exception to an order dated 19.10.2011 passed by the Writ Court in CWJC No.14393 of 2011, this appeal has been filed by the State Government under Clause 10 of the Letters Patent.

On a reference made pertaining to an industrial dispute between the State Government and the respondent No.2-employee, initially, an *ex parte* award was passed by the Labour Court and the matter was remanded back at the instance of the State Government to the Labour Court for consideration. The reference



was made in the year 1994 and after remand was made, the Labour Court again passed an award on 31.1.2011, i.e. after a period of 17 years and challenging the subsequent award, the writ petition in question was filed.

Respondent-workman was retrenched from service in the year 1982 after he had worked satisfactorily between 1.6.1979 to 31.3.1982. With regard to his termination in the year 1982, the reference was made and finding that he had worked for 240 days in a calendar year, the requirement of Section 25B of the Industrial Act was fulfilled and the retrenchment being without fulfilling the principle of Section 25B of the Act, the award in question was passed.

The learned Writ Court evaluated the entire matter and came to the conclusion that based on the evidence that came on record, a case of illegal retrenchment having been made out, the award which is based on due appreciation of evidence that was produced on record, no interference was to be made. The learned Writ Court further observed that even after remand made, the appellant-management did not adduce any evidence to rebut the contention of the workman and award having been passed in accordance to the material available on record, the learned Writ Court refused to interfere into the matter.



We find no reason to make any indulgence into the matter.

The appeal, therefore, stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
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