

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2376 of 2016
IN
Civil Writ Jurisdiction Case No. 9174 of 2014**

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1. Krishna Kumar Chaudhary Son of Sri Radhe Shyam Chaudhary resident of Ramni Mohan Garden, Kalambagh Road, P.S. Kuazi Mohammadpur, Town and District-Muzaffarpur

.... Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Department, of Industries, Government of Bihar, Patna-cum-Chairman, Bihar Industrial Area Development Authority, Bihar, Patna
2. The Bihar Industrial Area Development Authority through its Managing Director, Udyog Bhawan, East Gandhi Maidan, Patna
3. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan Patna
4. The Secretary, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna
5. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Jai Kishor Poddar, Advocate
For the Respondent/s : Mr. Piyush Lall, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 11-05-2017

Seeking exception to an order dated 28.11.2016 passed by the learned Writ Court in C.W.J.C. No.9174 of 2014, this appeal has been filed under Clause 10 of the Letters Patent.

Petitioner was working in the Bihar Industrial Area Development Authority (for short BIADA). He was compulsorily retired from service and when the same was set aside and he was



reinstated in service by denying the back wages, he filed the writ petition challenging the order denying the back wages to him. The learned Writ Court considered the question of payment of back wages, and, after taking note of certain judgments of the Hon'ble Supreme Court has recorded the following finding:

“Finding the evidence of such kind is not easy especially when an employee will not part with such evidence that easy. There are economic reasons why an employee will not let go all his advantage if it can accrue in his favour by not cooperating in this regard. But there is enough circumstantial evidence to show from the counter affidavit filed on behalf of the respondents as well as the rejoinder application filed by the petitioner that even while the petitioner was in job his energy and heart was elsewhere. Petitioner is a trained Chartered Accountant and the fact is not a matter of dispute, therefore, a person with such talent and experience has gainfully utilized his period of compulsory retirement by using his skill as a Chartered Accountant. The petitioner even after retirement continues with his practice as a Chartered Accountant. Therefore, it is not one of the cases where an employee is required to be compensated for a wrongful decision to disassociate him from employment whatsoever be the reason or the nature of such disassociation.”

Even though learned counsel for the appellant tried to argue that in cases of certain other similarly situated employees of BIADA, other Benches of this Court had granted back wages, we find that those were cases of persons working in technical field. The



case of the appellant is distinguishable from those cases and if after analysing various aspects of the matter, particularly the fact that petitioner is a professional Chartered Accountant, the learned Writ Court has exercised its discretion in refusing to award back wages, we see no reason to make any indulgence into the matter.

The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

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