

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1414 of 2015

IN

Civil Writ Jurisdiction Case No. 19282 of 2010

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1. Bihar Industrial Area Development Authority through its Managing Director, Udyog Bhawan, East Gandhi Maidan, Patna - 800004.
2. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna - 800004
3. The Secretary, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna - 800004
4. The Executive Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna - 800004
5. The Principal Secretary - cum - Chairman of Bihar Industrial Area Development Authority Industry Department, New Secretariat Building, Second Floor, Bailey Road, Patna.

.... Appellant/s

Versus

1. Sitaram Paswan Son of Late Munshi Paswan, R/o Village - Sokhara, P.S. - Barauni Alamganj, District - Begusarai.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Girijish Kumar

For the Respondent/s : Mr. Prashant Sinha

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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: 22-02-2017

There is a delay of 130 days in filing the appeal. Though the Court is not satisfied as such with the reason assigned in I.A. No.6186 of 2015, however, in the interest of justice the delay is condoned. I.A. is allowed. Thereafter, The matter is taken up on the merits.

The order under challenge is dated 30th of January, 2015



passed in CWJC No.19282 of 2010. The learned Single Judge has allowed the writ application of the sole private respondent, who was the petitioner before the writ court, and quashed the order of punishment of dismissal passed against him by the appellant authorities.

Four charges were drawn up against the private respondent. A show cause was issued upon him. Based on the show cause and without even considering the show cause as such, order of dismissal was passed. The finding is that no enquiry was held worth the name, if any, and the harshest punishment of dismissal was passed on charges of absence of a few days here and there.

Considering the procedure, which was adopted by the appellants to get rid of the services of the private respondent, the learned Single Judge set aside the order passed by the erstwhile Chairman of BIADA and directed payment of 75% of back wages and all other retiral benefits to which the private respondent may be entitled to.

Taking the facts as well as the law into consideration, the only option available before the learned Single Judge was to set aside the order of dismissal passed against the private respondent to be totally irrational, arbitrary and which has been passed without following any procedure known in the canons of rule of law.



It was a fit case in fact where exemplary cost should have been awarded upon the appellants which this Court was inclined to do even in appeal. However, on an earnest request and submission made by counsel for the appellants the Court only cautioned and warned the authorities that nobody can be law by himself because law must prevail over and above every authority exercising power.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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