

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.312 of 2017**

**IN**

**Civil Writ Jurisdiction Case No. 10848 of 2014**

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Ram Sevak Mahto, Son of Late Sonelal Mahto, resident of village -  
Mayapur, P.O. - Badarbanna, P.S. - Bahera, District - Darbhanga.

.... .... Petitioner/Appellant

Versus

1. The State of Bihar through the Agriculture Production Commissioner-cum-Principal Secretary, Department of Agriculture, Govt. of Bihar, Patna.
2. The Secretary, Department of Agriculture, Govt. of Bihar, Patna.
3. The Director, Agriculture, Department of Agriculture, Govt. of Bihar, Patna.
4. The Joint Director, Agriculture (Plant Protection), Department of Agriculture, Methapur, Agriculture Farm, Patna.
5. The District Magistrate, Begusarai.
6. The District Agriculture Officer, Begusarai, Department of Agriculture, Govt. of Bihar, Begusarai.
7. The Junior Plant Protection Officer, Begusarai, Department of Agriculture, Govt. of Bihar, Begusarai.
8. The District Treasury Officer, Begusarai.

.... .... Respondents/Respondents

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**Appearance :**

For the Appellant : None

For the State : Mr. Sarvesh Kumar Singh, A.A.G.-13

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**

**ORAL JUDGMENT & ORDER**

**(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)**

**Date: 26-09-2018**

Nobody appeared on behalf of the appellant on the case being called twice. Perforce the present Letters Patent Appeal has been taken up for hearing *ex-parte*.

2. The appellant (original writ-petitioner) *vide* writ petition, bearing C.W.J.C. No. 10848 of 2014, had prayed for the following reliefs:-

*(i) To pay salary as well as other admissible allowances to the petitioner with effect from 02.09.2008 for the period between September 2008 to September 2012 after granting him pay protection.*

*(ii) To grant annual increments with effect from 01.07.2009 to 01.07.2012 along with consequential monetary benefit.*

*(iii) Any other relief/, writ/writs, order/orders, direction/directions, for which the petitioner is found to be entitled in the facts and circumstances of the case.*

3. It was the case of the appellant (original writ-petitioner) that he was absorbed in the services under Agriculture (Plant Protection) Department of Agriculture, Methapur, Agricultural Farm, Patna from Bihar State



Agriculture Marketing Board with effect from 02.09.2008. Subsequent to his absorption, he had been posted in Plant Protection Centre at Begusarai. At his place of posting, even though he served diligently, he was not paid the salary and allowances and on demand, he was made to understand that the same shall be disbursed to him later. In support of his claim of having been absorbed in service of respondent No. 4 herein and that he was given pay protection, the appellant has brought on record the letter of absorption as well as the photocopy of a letter dated 16.04.2013, fixing his pay from 02.09.2008. The appellant (original writ-petitioner) had also asserted before the learned Single Judge that he discharged his duties from 02.09.2008 to 13.09.2012, but was not paid his salary for the aforesaid period in a most arbitrary manner.

4. The appellant (original writ-petitioner) is stated to have retired from the services on 30.09.2012.

5. The learned Single Judge has doubted the genuineness of the joining letter (Annexure-1/A to the writ-petition) of the appellant (original writ-petitioner) as it did not have any seal nor was there any receiving of the same, which ought to have been reflected in the letter. Even, the letter dated 23.11.2010 written by the Junior Plant Protection Officer, Begusarai to the Joint Agriculture Director, confirming the joining of the appellant (original writ-petitioner) in the



office, was not relied upon in view of the stand of the State reflected in the counter affidavit that there was nothing on record to come to a finding that the appellant (original writ-petitioner) has given his joining or had been working at any one of the Centres after his post absorption. It was for this reason, as has been claimed by the State, that his salary was not paid for the period for which the appellant (original writ-petitioner) claims to have worked.

6. The learned Single Judge after perusing the documents and communications including the attendance register brought on record by the State was of the view that there was no corresponding collateral evidence of the appellant (original writ-petitioner) having joined or having performed his work at Begusarai. In the absence of any clear evidence with regard to the services rendered by the appellant (original writ-petitioner), his prayer for a direction to pay his salary was refused.

7. The view of the learned Single Judge, in our opinion, is not worthy of any interference. We are in agreement with the view of the learned Single Judge that in the absence of any evidence regarding the joining of the appellant (original writ-petitioner) at a particular posting and offering his services, no direction could be issued for payment of his salary for the aforesaid period.



8. There is no merit in the present Letters Patent Appeal and the same is, accordingly, dismissed.

**(Mukesh R. Shah, CJ)**

**(Ashutosh Kumar, J)**

**Praveen-II/-**

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