

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.747 of 2017

In
Civil Writ Jurisdiction Case No.12114 of 2014

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Yugal Kishor Mishra, S/o Sri Karuna Shankar Mishra, R/o Village- Churhet,
P.O.+ P.S.- Sono, District- Munger.

... .. Appellant/s

Versus

1. The State of Bihar through the Engineer in Chief, Department of Irrigation, (Water Resource Department), Government of Bihar, Patna.
2. The Presiding Officer, Labour Court, Bhagalpur.
3. The Chief Engineer, Irrigation Department, Bhagalpur.
4. The Superintending Engineer, Ganga Pump Canal Circle.

... .. Respondent/s

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Appearance :

For the Appellant : Mr. Vishal Saurabh, Advocate.
For the Respondents : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-10-2018

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge on 20.03.2017 in C.W.J.C. No. 12114 of 2014 by which the learned Single Judge has dismissed the said writ petition and confirmed the order of the Presiding Officer of the Labour Court, Bhagalpur dismissing the reference, the original writ petitioner has preferred the present Letters Patent Appeal under Clause-10 of the Letters Patent.



2. We have heard learned counsel for the respective parties at length.

3. At the outset, it is required to be noted that there are concurrent findings recorded by the Labour Court, Bhagalpur as well as the learned Single Judge that the appellant herein-the original writ petitioner has failed to prove that he has worked for more than 240 days. The findings recorded by the Labour Court in Paragraph-5 of the Award is on appreciation of evidence.

3.1. Learned counsel appearing for the appellant has relied upon the certificate issued by the Assistant Labour Commissioner issued in the year 1996. However, the same cannot be said to be a conclusive proof. The appellant, as such, was required to prove by leading cogent evidence that, in fact, he had worked for not less than 240 days.

4. The submission on behalf of the appellant that it was for the employer to prove that the appellant has not worked for not less than 240 days is contrary to the law of evidence. If the appellant-workman asserts that he had



completed 240 days, the burden is upon him to prove that he has not worked for less than 240 days.

5. In view of the above and for the reasons stated hereinabove, we see no reason to interfere with the impugned judgment and order. The appeal deserves to be dismissed and is, accordingly, dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
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