

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1326 of 2017

IN

Civil Writ Jurisdiction Case No. 1295 of 2016

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Jay Prakash Tiwari, son of Sri Ram Pratap Tiwari, resident of Village- Kanti, P.S.
Lalganj, District Vaishali.

.... Appellant/s

Versus

1. The State of Bihar, through the Principal Secretary Personnel and Administrative Department, Bihar Government, Patna.
2. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
3. The Engineer-in- Chief, Rural Work Department, Bihar, Patna.
4. The Superintending Engineer, Work Department, Work Circle, Muzaffarpur.
5. The District Magistrate, Vaishali at Hajipur. null null
6. The Executive Engineer, Rural Work Department, Works Division, Hajipur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nityanand

For the Respondent/s : Mr. Anjani Kumar – AAG-4

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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: 20-06-2018

Heard counsel for the appellant.

Perused the impugned order dated 12.07.2017. In our opinion the decision of the learned Single Judge as expressed in following words cannot be said to be erroneous:

“ In my opinion, one of the essential prerequisites for seeking regularization of



service by way of absorption is that the daily wager should be on the roll of the State in whatever capacity, when he seeks a consideration under the policy decision which in the present case would be the resolution dated 16.03.2006. I draw my strength from the observation of the Supreme Court made in paragraph 28 of the judgment reported in 2015 (2) PLJR (SC) 6 (Oshiar Prasad & ors. V. the Employees in relation to management of Sudamdih Coal Washery of M/s BCCL, Dhanbad), wherein their Lordships have held that the master servant relationship should exit on the date when the cause of action has arisen for any daily wager seeking a regularization. The facts are not in dispute and it is uncontested that the petitioner neither bothered to question his relieving before the appropriate forum nor did he raise any grievance under the policy decision dated 16.03.2006, rather waited for six long years to come before this Court in C.W.J.C. No. 23661/2012.

Apart from the fact that a master servant relationship has to be demonstrated as existing on the date when an enforceable right under a policy decision is exercised by a daily wager, which is completely missing in the present case, even on grounds of gross laches and delay on the part of the petitioner to raise his claim, this



Court is not persuaded to grant indulgence to the relief prayed or to interfere with the order impugned.”

No interference is warranted. Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Devendra/Arjun

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

