

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.183 of 2018
IN
Civil Writ Jurisdiction Case No. 1950 of 2011**

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1. Sanjeev Kumar S/o Sri Raghuraj Prasad, R/o Vill-Patauna, P.S.-Paliganj Distt.-Patna.
2. Rajiv KUMar Sharma, S/o sri Yogendra Sharma, R/o Vill-Birpur, P.S.-Nagwa, P.S.-Naubatpur, Distt.-Patna.
3. Vishnuchit Ojha, S/o Sri Raghaw Ojha, R/o Vill-Patauna, P.O.-Sidhipur, P.S.-Paliganj, Distt.-Patna.

..... Appellant/s
Versus

1. The State of Bihar
2. The Commissioner-Cum-Secretary, Finance Department, Govt. of Bihar Patna.
3. The Director, Provident Fund Directorate, Finance Department, Govt. of Bihar, Patna.
4. The Deputy Commissioner, Finance Department, Govt. of Bihar, Patna.
5. The Joint Commissioner, Account Administration, Finance Department, Govt. of Bihar, Patna.
6. The Secretary (Beyay), Finance Department, Govt. of Bihar, Patna.
7. The Senior System analyst & Project Coordinator, Govt. of India, Ministry of Information technology Bhawan, Bailey Road, Patna-800015
8. The Treasury Officer, Bhojpur at Ara.

..... Respondent/s

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Appearance :

For the Appellant/s : Mr.Rajeev Kumar Singh, Advocate
For the Respondent/s : Mr. AJAY KUMAR RASTOGI- AAG10

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)



Date: 20-08-2018

1. Feeling aggrieved and dissatisfied by the impugned judgment and order dated 24.01.2018 passed by the learned Single Judge passed in C.W.J.C. No. 1950 of 2011 by which the learned Single Judge dismissed the said petition, the original petitioners have preferred, the present Letters Patent Appeal.

2. That the appellants and the original petitioners, who were working as Data Entry Operators on contract basis, preferred the writ petition before the learned Single Judge for quashing and setting aside the communication dated 30.09.2010 issued by the Secretary, Finance Department, Government of Bihar as well as the order dated 15.12.2010 also issued by the Secretary, Finance Department, Government of Bihar, by which it was decided to direct the concerned Data Entry Operators to submit their *Biodata* as well as the order dated 06.01.2011 passed by the Treasury Officer, Bhojpur, Arrah, by which their services were put to an end. The petitioners also prayed for an appropriate order directing the concerned respondents to regularize their services and make them permanent.

2.1. It is the case on behalf of the petitioners that all of them are trained in computer line including entry of data. That



all were appointed after the office of respondents prepared a panel for appointment and that was approved by the District Magistrate, Bhojpur on the basis of their placement in the panel.

2.2. It is the case on behalf of the petitioners that since many years, they are working as Data Entry Operators and therefore their services ought to have been regularized and they ought to have been made permanent.

3. Having considered the fact that the respective petitioners-Data Entry Operators were appointed on contractual basis and that too not on the sanctioned post at the time of appointment and that the empanelment of these petitioners were not pursuant to any advertisement, therefore, they have no legal right to remain on post and/or their regularization and their permanency therefore, the learned Single Judge by the impugned judgment dismissed the petition and refused to grant any relief sought/prayed in the writ petition.

4. Feeling aggrieved and dissatisfied by the impugned order passed by the learned Single Judge, the original petitioners have preferred the present letters patent appeal.

5. We have heard the learned counsels appearing on behalf of the respective parties at length. At the outset, it is required to be



noted that the appellants-original petitioners were appointed on contractual basis as Data Entry Operators. Nothing is on record with respect to employment of the original petitioners pursuant to an advertisement. Nothing is on record that there were sanctioned posts on which the original petitioners were appointed. Therefore, the original petitioners were appointed on contractual basis and that too not on the sanctioned posts and their appointments were not made after following any regular recruitment process, as such, the learned Single Judge has rightly held that they do not acquire any right of permanency and/or regularization on the post of Data Entry Operator. As per catena of decisions by the Hon'ble Supreme Court mere continuation for a long period on contractual basis, does not confer any right to get regularization and/or permanency, more particularly, when their appointments are *de hors* the law and without following any due procedure of recruitment process.

5.1. In the case of **Secretary, State of Karnataka and others Vs. Umadevi** reported in **[(2006) 4 SCC 1]**, the Hon'ble Supreme Court has considered the issue with respect to right of the employee seeking regularization on the strength of long and continuous work. The



Hon'ble Supreme Court has specifically observed and held that mere long and continuous work does not confer any right of regularization/permanency when the appointments are not in accordance with law and the appointments are illegal and without following any due procedure of selection and the appointments are not on the sanctioned post. The said decision has been followed in many subsequent decisions and as such, the same has been consistently followed.

6. Applying the law laid down by the Hon'ble Supreme Court in the aforesaid decision to the facts of the case on hand, that the appointments of the petitioners as Data Entry Operator on contractual basis were not on the sanctioned post and not even after public advertisement and, therefore, the same can be said to be in violation of Article 14 of the Constitution of India and, is illegal and therefore the original petitioners are not entitled to regularization/permanency as claimed. As such, the learned Single Judge rightly dismissed the petition seeking regularization/permanency.

7. In view of the above and for the reasons, stated above, it cannot be said that the learned Single Judge has committed any error in dismissing the petition and refusing



to grant any relief and/or permanency, which calls for interference in the letters patent jurisdiction, therefore, no case is made out to interfere with the impugned judgment dated 24.04.2018.

8. Under the circumstances, the present appeal deserves to be dismissed and is accordingly, dismissed.

(Mukesh R. Shah, CJ)

(Dr. Ravi Ranjan, J)

Brajesh/-

AFR/NAFR	NAFR
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