

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.249 of 2017

In

Civil Writ Jurisdiction Case No.16225 of 2006

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Sanjay Kumar, Son of Sri Laxman Singh, Resident of Village & PO
Akaurhi, P.S.- Akaurhi Gola, District- Rohtas at Sasaram.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Secretary cum Commissioner, Road Construction Department,
Bihar, Patna.
3. The Engineer-in-Chief, P.W.D. Bihar, Patna.
4. The Superintending Engineer, Bhojpur Circle, P.W.D., Ara.
5. The Executive Engineer, P.W.D., Buxar Division, Buxar.
6. Md. Mustakim Ansari, son of not known posted as Khelashi, Dehri
Road Division, Dehri, P.W.D., Dehri, District- Rohtas at Sasaram.
7. Md. Basir Anwar, son of not known, posted as Khalasi Road,
Division, Buxar, District- Buxar.

... .. Respondent/s

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Appearance :

For the Appellant/s :

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-09-2018

1. Though the matter was adjourned twice earlier,

today again, learned counsel appearing for the appellant

is absent.
2. Under the circumstances, we have no other



alternative but to proceed with hearing the present appeal *ex-parte*.

3. By way of this Letters Patent Appeal, the appellant has challenged the judgment dated 12.01.2017 passed by the learned Single Judge in C.W.J.C. No. 16225 of 2016, by which learned Single Judge has dismissed the said petition.

4. Considering the impugned judgment passed by the learned Single Judge, it appears that initially the original writ petitioner was appointed as a *Khalashi* for a fixed term of three months. It appears from the records that his appointment was made without following any procedure as before his appointment neither any advertisement was issued nor any recruitment process was initiated or followed. Hence, the service of the appellant came to be terminated and/or put to an end in the year 1995. Thereafter, without even challenging his order of termination of 1995, in the year 2006 i.e. after about approximately eleven years, the appellant had



filed the writ petition approaching this Court, asking for similar relief granted in C.W.J.C. No. 6445 of 1999 disposed of on 28.02.2005, by which, learned Single Judge, in the case of some other employees, directed the original writ petitioners to approach the appropriate authority and directed the appropriate authority to consider their case.

4.1 It appears that only thereafter, the appellant woke up and approached this Court and that too without challenging the order of termination which was in the year 1995.

5. Considering the aforesaid circumstances, more particularly the appointment of the original writ petitioner which was itself illegal and back-door appointment and without following due procedure and approaching this Court after approximately eleven years of his termination, it cannot be said that learned Single Judge has committed any error in rejecting the petition. No interference is called for.



6. In the circumstances, the present appeal fails and the same is accordingly dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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