

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.941 of 2018
IN
Civil Writ Jurisdiction Case No. 69 of 2017**

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1. Shri Prabhakar Dwivedi, Son of Ramautar Dwivedi, Resident of Village-Deokuli, P.O.- Deokuli, P.S.- Brahampur, District- Buxar.

.... Appellant/s

Versus

1. The Bihar State Power Holding Company, Patna through its Chief Managing Director, Vidyut Bhawan, Bailey Road, Patna.
2. The Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.
3. The Chairman, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.
4. The General Manager-Cum-Chief Engineer, Central Bihar Area Electricity Board, 8, Serpentine Road, Patna-1.
5. The Electrical Superintending Engineer, Shahabad Electrical Circle, Arrah.
6. The Electrical Executive Engineer, Electric Supply Division, Bhabhua, Rohtas.
7. The Assistant Electrical Engineer, Electric Supply Sub-Division, Mohania, Rohtas.
8. The State of Bihar, through the Commissioner, Labour and Employment Department, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr.Rana Ishwar Chandra, Adv.
For B.S.P.H.C. Ltd. : Mr.Ranjeet Sinha, Adv.
For the Respondent/s : Mr. Naman Nayak- AC to AAG 7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 06-08-2018

Challenge in this Letters Patent Appeal is to the judgment dated 18.06.2018 passed by the learned writ Court in C.W.J.C. No. 69 of 2017. By the impugned judgment the learned writ Court has refused to quash the order dated 29.04.1987 and 11.05.1987 contained in Annexure 3 and 3/1 to the writ application



and to reinstate the petitioner on the post of Switch Board Operator in the office of the Bihar State Power Holding company, Patna (respondent no.1).

It is the grievance of the petitioner that while he was working on ad-hoc basis as trained I.T.I. Electrical Trades Apprentices of the the then Bihar State Electricity Board, he was asked to produce all his certificates, documents including the I.T.I. Certificate. The petitioner submitted his original I.T.I. Certificate in the office of Assistant Electrical Engineer, Electric Supply Division, Bhabhua, but, thereafter, he was served with a show cause notice and was terminated.

The facts disclosed in the writ application would reveal that the petitioner had challenged his order of termination in C.W.J.C. No.3661 of 1987 before this Court. The matter was referred to the Secretary, Ministry of Labour, Government of India to enquire whether the certificate submitted by the petitioner was genuine or not. Pursuant to the order of this Court and the information received from the Director of Training Secretary, NCVT, Ministry of Labour, Government of India, a report was submitted by the Deputy Registrar of this Court. In the enquiry, the petitioner claims that the certificate was found genuine. It is submitted that when all the writ applications were listed before the Hon'ble High Court, after looking into the



report submitted by the Deputy Registrar, the Hon'ble High court was pleased to stay the order of dismissal from service and by virtue of that order the writ petitioners of those cases are still continuing with their job but subsequently when the writ application of this petitioner came before this Court for hearing in admission matter on 26.04.1988, the writ application of the petitioner was dismissed by relying upon the statements made in the counter affidavit. It is submitted that in the order passed rejecting the writ application of the petitioner the Hon'ble Court referred the Certificates Nos.162283 and 162251 which had no connection with the petitioner.

It is further found from the records that being aggrieved by the order dated 26.04.1989 by the the then Hon'ble Division Bench of this Court in C.W.J.C. No.3661 of 1987 the petitioner filed a Review Application which was also dismissed on 20.01.1989. The petitioner, thereafter, preferred S.L.P. (Civil) No.7017 of 1989 before the Hon'ble Supreme Court but the same was dismissed on 10.08.1989. The case of the petitioner is that, thereafter, he filed a Title Suit No.88 of 1999 before the Civil Judge, Buxar and in the said suit after evidence the learned Court below disposed of the Title Suit. From order dated 06.08.2008 (Annexure 9 to the writ application) it appears that the learned Court below has passed an Order under Order VII Rule 10 of the Code of Civil Procedure wherein after hearing the



parties the Court came to a conclusion that when the consequential relief of the aggrieved person (employee) is his reinstatement in service with pay and wages then the matter comes under the purview of the Industrial Disputes Act and the jurisdiction of the Civil Court is barred. On this ground by Annexure '9' it has been held that the Court has got no jurisdiction to try this suit and the petitioner being the plaintiff in the said suit has been granted liberty to seek his remedy in the labour Court if so advised by his counsel.

In the aforesaid background, petitioner has once again moved this court with a submission that while similarly situated persons are working and they are doing their job, the petitioner has suffered due to wrong affidavit filed by the respondent.

The learned Single Judge has gone through the entire materials available on record and found that the two certificates referred above were the subject matter of consideration earlier before this Court in the Division Bench and the order of this Court has been affirmed up to the Hon'ble Supreme court and, therefore, no relief may be granted in the present writ application.

Learned counsel representing the appellant has tried to persuade us to entertain the present Letters Patent Appeal on the solitary ground that similarly situated persons like the petitioner/appellant are still working.



We have given our anxious consideration to the facts and circumstances of the case but finding that earlier the petitioner had preferred a Review Application also on the ground which are being pleaded before us but the Review Application was dismissed about 30 years back and hence after a period of 30 years, in our opinion, it would not be permissible for us to pass any order in which a writ appeal is in fact seeking a review of the order passed by the Hon’ble Division Bench of this court in the year 1988.

Finding no merit in the Letters Patent Appeal, it is, accordingly, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha

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CAV DATE	
Uploading Date	07.08.2018
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