

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1611 of 2015**

**In**  
**Civil Writ Jurisdiction Case No.17422 of 2014**

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Dilip Kumar Jha son of Late Mahendra Jha resident of Village + Post Office -  
Prem Nagar Suhai, District - Sitamarhi, Bihar ... Appellant

Versus

1. The State of Bihar, Depart of Labour, Employment and Training now known as Labour and Resources Department, New Secretariat, Patna - 15 through its Principal Secretary.
  2. Mahindra and Mahindra Ltd., Mahindra Towers, Worli Road No. 13, Mumbai - 400018.
  3. The Vice President, Human Capital, Mahindra and Mahindra Ltd., Mahindra Towers PK Khurne Chowk, GM Bhosle Marg, Worli, Mumbai - 400018.
  4. The President, (HR, Corporate Service AND After Market) Member of Group Management Board, Mahindra and Mahindra Ltd. AND Mahindra Logistics Ltd., Mahindra Towers, PK Khurne Chowk, GM Bhosle Marg, Worli, Mumbai 400018.
  5. The Aera Manager, Mahindra Logistics Ltd., 3rd Floor, JJ Complex, East Boring Canal Road, Patna - 800001.
  6. The Mahindra Logistics Ltd. 6th Floor, Mahindra Towers, PK Khurne Chowk, GM Bhosle Marg, Worli, Mumbai - 400018.
  7. The Chairman, Mahindra Logistics Ltd., 6th Floor, Mahindra Towers, PK Khurne Chowk, GM Bhosle Marg, Worli, Mumbai - 400018.
  8. The Chief Executive Officer, Mahindra Logistics, 2nd Floor, 271, Business Park, Visheshwar Nagar Road, Goregaon (East), Mumbai - 400063. null null
  9. The Head - IR, Mahindra Logistics, 2nd Floor, 271, Business Park, Vishweshwar Nagar Road, Goregaon (East), Mumbai - 400063
- ... Respondents
- =====

**Appearance :**

For the Appellant : Mr. Dilip Kumar Jha, in person  
For the State : Mr. Rajeev Ranjan, AC to GP XX  
For respondents 2 to 9 : Mr. Manish Jha, Adv.

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**  
**and**  
**HONOURABLE JUSTICE SMT. NILU AGRAWAL**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)**

**Date : 26-10-2018**

The appellant appears in person to pursue this appeal.

2. The State is represented by Mr. Rajiv Ranjan, AC to GP XX and the Company, M/s Mahindra Logistics Ltd., is represented by Mr. Manish Jha, Adv.



3. It is feeling aggrieved by the order passed by the management of M/s Mahindra Logistics Ltd. whereby the service of the appellant-writ petitioner was terminated that he raised an industrial dispute for its adjudication in the Industrial Tribunal in I.D. Case No. 2 of 2012.

4. The Tribunal, taking note of the undisputed position that the appellant-petitioner held a managerial post and drew salary far above that of a workman and, thus, travelled outside the purview of the Industrial Disputes Act, held the case not maintainable and, accordingly, disposed of the same.

5. Not being satisfied with the order, the appellant-writ petitioner moved this Court in C.W.J.C. No. 17422 of 2014, which was dismissed by a learned Single Judge of this Court vide judgment and order passed on 28.07.2015 affirming the order, passed by the Tribunal, in reference to the provision of the Industrial Disputes Act, 1947, as well as the undisputed fact accompanying the case which confirmed that the appellant-petitioner drew a remuneration more than Rs.18/- lakh per annum and was holding a post in the managerial capacity. This factual aspect of the matter is also not disputed by Mr. Jha, who appears in person. His grievance is that by the action of the respondents, he



was reduced to the capacity of a workman and the order of termination so passed in an act of fraud.

6. We have examined the order passed by the Tribunal as well as by the learned Single Judge affirming the order of the Tribunal and there is no expression given by either by the Industrial Tribunal or the learned Single Judge on the merit of the contest, save and except that the dispute so raised fell outside the jurisdiction of the Tribunal and beyond the purview of the Industrial Disputes Act, 1947, as the petitioner was holding a post in the supervisory category. Since, on facts, that the appellant-petitioner held the post in the managerial category and that his remuneration was more than the wages admissible to a workman under the Industrial Disputes Act, 1947, is not in dispute, no infirmity can be found either in the order of the Tribunal or the one impugned before this Court passed by the learned Single Judge on the writ petition so filed by the appellant-petitioner.

7. This appeal was admitted for hearing on 25.08.2017 and was taken for consideration today, but, having heard the parties and for the reasons, so discussed, we, find no reason to disagree with the opinion expressed by the learned Single Judge to cause interference therewith. However, since, the grievance raised by the petitioner has not been adjudicated on merits either by the



Tribunal or by the learned Single Judge, we are persuaded to dispose of this appeal with liberty to the appellant-petitioner to take recourse to such other remedy as may be available to him for espousing his grievance and for questioning the order of termination so passed by the respondent-Company.

8. With the observation aforementioned, we dispose of the appeal with no order as to costs.

**(Jyoti Saran, J)**

**( Nilu Agrawal, J)**

Shamshad/-

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