

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.238 of 2019

In
Civil Writ Jurisdiction Case No.547 of 2016

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Shatrughan Manjhi, S/o Deoki Nandan Manjhi @ Devki Nandan, Resident of
Village Daniawa, P.S.- Daniawa, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Vigilance, Patna.
4. The Deputy Inspector General of Police (Vigilance), Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Ramchandra Sahni, Ms. Sarai Kumari, Advocates
For the Respondent/s	:	Mr. Prabhat Kumar Verma (A.A.G. 3)

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(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 05-07-2021

Heard the parties.

Aggrieved by the judgment and order dated 02.01.2019 passed in C.W.J.C. No.547 of 2016 passed by learned Single Judge of this Hon'ble Court dismissing the writ petition, the appellant has preferred this LPA.

Briefly stated the facts of the case is that while under suspension by order dated 22.01.2010, appellant was served a



memo of charge dated 7.12.2010 issued by the Superintendent of Police, (Bureau of Vigilance) with respect to charges of misconduct (i) absconding from duty from 10.11.2009 without any information or sanctioned leave, for which, his salary was stopped by departmental order no.511 / 2009 dated 20.11.2009 and show cause was issued to him but he did not reply showing act of indiscipline and insubordination. (ii) He remained unauthorized absent from 24.12.2009 after being granted leave of 8 days from 16.12.2009 to 23.12.2009 and he was put under suspension by departmental order no.59/2010 dated 22.01.2010. (iii) He reported on duty on 9.3.2010 but thereafter remained absent and used to mark his presence on attendance register occasionally.

It is submitted on behalf of appellant that finding recorded by the learned Single Judge that appellant remained absent for 906 days is factually incorrect as once the appellant was put under suspension, there was temporary severance of relation of employer and employee and during period of suspension, the suspended employee cannot be treated on duty, as such, there was no occasion for him to join the duty on 9.3.2010 and to remain on duty thereafter.

Appellant remained unauthorized absent from



24.12.2009 to 22.01.2010 when he was put under suspension for being on unauthorized absence which is 31 days and, as such, the finding recorded by the learned Single Judge that appellant remained absent for 906 days appears to be error of fact.

At this stage, the learned counsel for the appellant informs this Court that during pendency of LPA, appellant has died, as such, present LPA is disposed of with liberty to legal heirs and representatives of deceased/appellant, if so advised, to challenge the order dated 02.01.2019 passed by learned Single Judge in CWJC No.547 of 2016 by way of filing a separate LPA.

With aforesaid liberty present LPA is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

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

