

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.467 of 2019

In

Civil Writ Jurisdiction Case No.11996 of 2016

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Girdhari Kumar Son of Late Mahesh Chandra Prasad Resident of Mohalla -
Dumduma, (behind Zila School), P.O. and P.S.- Laheria Saray, District -
Darbhanga

... .. Appellant/s

Versus

1. The State of Bihar.
2. Additional Mission Director Bihar Administrative Reform Mission Society,
General Administration Department Bihar, Patna.
3. The District Collector Darbhanga.
4. The Senior Deputy Collector (Electric), Darbhanga.
5. The Electric Executive Engineer North Bihar Power Distribution Company
Pvt. Ltd. Town Electric Supply Division, Darbhanga.
6. The Revenue Officer Electric Supply Division, Darbhanga.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Sunil Kumar, Adv.

For the Respondent/s : Mr. Sanjay Kumar Sharma, AC to AAG-3.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 05-07-2022

Heard learned counsel for the parties.

The appellant has preferred this appeal against the order
dated 21.02.2019 passed in C.W.J.C. No.11996/2016 by the
learned Single Judge (Hon'ble Mr. Justice Madhuresh Prasad) by
which the writ petition preferred by him was dismissed holding
that the appellant being serving on contractual basis and having



been found inefficient in his services has rightly been dispensed with.

The facts of the case are as follows:

In the year 2013 the Bihar Prashasanik Sudhar Mission Society, Bihar, Patna (henceforth for short 'the Society') came out with an advertisement for the post of Executive Assistant on contractual basis. Appellant was one of the applicant, who was subsequently taken in and was assigned the job with the office of the Electrical Executive Engineer, Electric Supply Division, Darbhanga (Rural) on 01.07.2014. Accordingly, the appellant submitted his joining on 02.07.2014 and started working at the Customer Care Centre.

On 18.03.2015, the Electrical Executive Engineer, Electric Supply Division, Darbhanga (Rural) submitted a report to the concerned District Magistrate stating that the appellant does not have competence in taking Hindi or English dictation/typing. Accordingly, show-cause was asked from him and the reply submitted by the appellant was almost acceptance of the complaint made in which he stated that as he was attending the cremation of his mother-in-law, he failed to do his job sincerely.

The respondent authority gave him another chance by allowing him to appear in typing test on 06.04.2015. As he could



not satisfy the respondents, another show-cause was issued on 21.05.2015. Finally on 12.06.2015, the services of the appellant was brought to an end.

Aggrieved, the appellant preferred C.W.J.C. No.11996/2016. The respondents appeared and filed their counter affidavit. The writ petition was taken up by the learned Single Judge on 21.02.2019 and after recording that:

- (i) the petitioner's work much below the mark;
- (ii) he is not capable of typing either in Hindi or English;
- (iii) Utility of the petitioner as a contractual employee was not found to be worth his retention;
- (iv) Accordingly, the petitioner has been removed.

held as follows:

4. Such recommendations cannot vest any right in the petitioner since the officials have consistently found his work to be much below the mark and the nature of his employment was contractual. After giving him an opportunity in the matter, the action has been taken against him, therefore, this Court does not consider it appropriate to interfere in the matter. This Court would only observe that in his response to the allegation of inefficiency, as contained in petitioner's communication (Annexure 4),



there is an inherent admission of his inefficiency. Petitioner has tried to explain his inefficiency by asserting that he was mentally disturbed on account of demise of his mother-in-law.

5. In the circumstances, the writ petition is devoid of merit and the same is dismissed.

This resulted into the filing of the LPA No.467/2019 by the appellant herein.

The aforesaid facts have been elaborated to emphasize that a contractual employee cannot claim his retention as a matter of right particularly when he has found to be insufficient and thus his services were dispensed with. The learned Single Judge was justified in dismissing the writ petition preferred by him.

The present appeal lacks merit and is thus hereby dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Prakash Narayan /-

AFR/NAFR	NAFR
CAV DATE	NA
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