

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.240 of 2022

In
Civil Writ Jurisdiction Case No.19347 of 2018

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1. The Bihar State Power Holding Company Limited Patna.
 2. The Senior Manager, Personnel South Bihar Power Distribution Company Limited, Bihar, Patna.
 3. The General Manager, Bihar State Power Holding Company Limited, South Bihar Power Distribution Com.
 4. The Executive Engineer, Electricity Supply Division, Bihar Sharif, Nalanda, District - Nalanda.

... .. Appellant/s

Versus

1. Krityanand Ram S/o Puhuplal Ram, Resident of Village - Manikpur, Ward No. 12, P.S. - Phulkaha Bazar, District - Araria.
2. The State of Bihar, through Principal Secretary, Power and Energy Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Kunal Tiwary, Adv.
For the Respondent/s : Mr.Lalit Kishore (AG)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR

PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 18-10-2022

Heard Mr. Kunal Tiwary, learned advocate for the appellant, who has challenged the order dated 10.03.2022 passed in CWJC No. 19347 of 2018 whereby the order of dismissal of the respondent has been challenged on the ground that the initial appointment being vitiated on account of fraud,



such appointment can be done away with even without undertaking a domestic enquiry.

It appears from the impugned order that the respondent was appointed on 31.12.2008 on temporary basis, whose services were regularized on 27.08.2018. He remained on such regular post of Junior Lineman with the appellant.

The learned counsel for the appellant has assailed the order on the ground that the initial order of appointment clearly indicated that in case any information furnished by the respondent was found to be false, his services would automatically be terminated. When he was regularized, then also, in continuation of the aforesaid caveat, the services were regularized with a condition that the information furnished by the respondent should be correct. On such ground, it has been urged that the learned Single Judge ought not to have insisted for a domestic enquiry before dispensing with the services of the respondent.

Any caveat or condition in the initial order of appointment on temporary basis and its regularization in the organization, cannot be taken as an excuse for dispensing with



the requirement of putting a person to domestic enquiry in case the initial appointment is found to be faulty. It further appears from the submission advance on behalf of the appellant that there was some mismatch in the mark-sheet offered by the petitioner and what was available in the record of the organization. The difference is only of ten marks.

In any view of the matter, we are absolutely in agreement with the learned Single Judge's observation that for dispensing with the services of the petitioner, on this ground also, an enquiry was required where the respondents would have been asked to explain as to why his services ought not to be dispensed with and he be dismissed from service.

We also find from the impugned order that the intervening period was also directed to be regulated in terms of the decision of the Supreme Court in the cases of ***Managing Director ECIL Hyderabad Etc. Vs. B. Karunakar Etc., (1993) 4 SCC 727*** and ***Chairman cum Managing Director, Coal India Ltd. & Ors. Vs. Ananta Saha & Ors., (2011) 5 SCC 142.***

We find no reason to interfere with the order passed by the learned Single Judge.



The appeal is dismissed but without any order as to costs.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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