

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.401 of 2021

In
Civil Writ Jurisdiction Case No.147 of 2018

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1. The Bihar State Food and Civil Supply Corporation through its Chairman, Sone Bhawan, Birchand Patel Path, Patna at present Khadya Bhawan, R Block, Patna.
 2. The Managing Director, The Bihar State Food and Civil Supply Corporation through its Chairman, Sone Bhawan, Birchand Patel Path, Patna at present Khadya Bhawan, R Block, Patna.
 3. The Chief of Administration, The Bihar State Food and Civil Supply Corporation through its Chairman, Sone Bhawan, Birchand Patel Path, Patna at present Khadya Bhawan, R Block, Patna.
 4. The District Manager, State Food Corporation Chapra, Saran.

... .. Appellant/s

Versus

Irfan Ahmad Khan Son of Shri Islam Khan, resident of Dahiyawan, P.S. Town Chapra, District - Chapra.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Shailendra Kumar Singh
For the Respondent/s : Mr.Raj Kumar Mishra

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 12-12-2022

Re.: I.A. No. 02 of 2022

Heard Interlocutory Application No. 02 of 2022 for
condonation of delay of 24 days in filing the present Letters
Patent Appeal.

For the reasons stated in the application and the
affidavit, delay of 24 days in filing the present Letters Patent
Appeal is condoned and I.A. No. 02 of 2022 stands allowed.

Re.: L.P.A. No. 401 of 2021

Heard learned counsel for the appellants on merits.



Respondent Irfan Ahmad Khan who is stated to have been appointed on 10.11.1982 as a salesman on daily wage basis. His services were regularized on 16.10.1989 in the pay scale of Rs. 535-765 vide Annexure-9 to the writ application. Thereafter, in the year 1996, appellants have rake up the issue relating to initial appointment and regularization of respondent Iftekhar Ahmed Khan was by incompetent authority and it has resulted in termination and it was subject matter of litigation in CWJC No. 8271 of 1996, order of termination was set aside on 18.05.1996, thereafter he had filed CWJC No. 8271 of 1996 which was also disposed. He had filed CWJC No. 5033 of 1998 challenging the order of termination dated 09.05.1998 it was also set aside on 27.08.2014. Further department preferred LPA No. 662 of 2015 and suffered an order dated 19.08.2016, thereafter once again respondents services have been dispensed.

Feeling aggrieved by the decision of the appellants, respondent filed CWJC No. 147 of 2018 and it was disposed on 30.04.2021 in favour of the respondent, hence the present appeal by the Bihar State Food and Civil Supply Corporation and Ors.

Learned counsel for the appellants vehemently contended that from the inception namely date of respondent appointment of daily wage and regularization were passed by



the incompetent authority, therefore the appellant Corporation terminated the service of the respondent.

The respondent served the appellant corporation from 1982 to 16.10.1989 with a break as a daily wager. On 16.10.1989, his services were regularized and pay scale of Rs. 535-765 was granted, therefore he had a status of permanent employee of the appellant Corporation with effect from 16.10.1989. Having regard to the permanency status in the Corporation, if the Corporation intends to take any action against the respondent they have to resort disciplinary proceedings in terms of the relevant regulation. Moreover, perusal of the records and the statement made on behalf of the appellant Corporation is that respondent's services have been availed by the Corporation and regularization has been ordered by incompetent authority. In other words it is only a irregular appointment and not illegal.

Apex Court in the case of *Secy., State of Karnataka and Others vs. Uma Devi* reported in (2006) 4 SCC page 1 it is held that regularized employees issue cannot be reopened once regularization is already undertaken. Once the appellant Corporation have extracted work from time to time from 10.11.1982 to 15.10.1989 on daily wage basis and his services



were regularized with effect from 16.10.1989 till order of termination i.e. 18.05.1996. He has rendered sufficient number of years of service. Further from time to time appellant Corporation are committing one or the other error while passing orders against the respondent and which were subject matter of litigation before this Court in which the appellant Corporation suffered orders. During the period from 1996 to 2018, respondent had filed three writ petitions and appellant Corporation have filed one LPA. This is fourth round litigation on behalf of the respondent in writ application.

In the light of these facts and circumstances read with the judicial pronouncements on the regularization of daily wage cited supra the appellants have not made out a case so as to interfere with the order of the learned Single Judge.

Accordingly appeal stands dismissed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

Niraj/Aditya

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	15.12.2022
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