

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1138 of 2018

In
Civil Writ Jurisdiction Case No.7463 of 2018

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Rajeev Kumar Son of Lal Babu Sharma, resident of Village- Mehandia, P.O. Pokhariya Rai, P.S.- Champatia, Distt.- West Champaran at Bettiah.

... .. Appellant/s

Versus

1. The State Of Bihar through Principal Secretary, General Administration Department, Government of Bihar, Patna
2. The Upper Mission Director, Bihar Administrative Reform Mission Society, General Administrative Dep
3. The District Magistrate-cum-Collector West Champaran, Bettiah.
4. The Senior Deputy Collector-cum-Incharge Officer, District General Section West Champaran, Bettiah.
5. The Deputy Collector, District Establishment West Champaran, Bettiah.
6. The Deputy Collector, District Nazarat, West Champaran Bettiah.
7. The District Arms Magistrate, West Champaran, Bettiah.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjeev Kumar, Advocate
For the Respondent/s : Mr. Sanjay Kumar Ghosarvey, AC to AAG 3

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

Date : 20-12-2022

Appellant has assailed the order of the learned Single Judge dated 11.07.2018 passed in C.W.J.C. No. 7463 of 2018. He was appointed on contract basis to the post of Executive Assistant under the Collector of West Champaran, Bettiah.

2. Perusal of the contract appointment dated 29.05.2014, it is evident that it is on *ad hoc* post for a period of one year and it



was extended from time to time. The last extension was on 13.10.2017. The respondents received complaint against the appellant in respect of alleged certain misdeeds stated to have been committed by the appellant while working on contract basis. In this regard, official respondent have issued a notice seeking appellant's explanation and he had submitted his explanation. With reference to show cause notice read with the appellant's explanation, concerned respondent proceeded to terminate the services of the appellant on 09.02.2018. Feeling aggrieved and dissatisfied with the order of termination, appellant has filed C.W.J.C. No. 7463 of 2018 and it was decided on 11.07.2018 against the appellant. Hence the present appeal.

3. Learned counsel for the appellant submitted that there were serious allegations levelled against the appellant with reference to private complaints. Contentions stated in the show cause has not been considered while passing order of termination dated 09.02.2018. The same was not appreciated by the learned Single Judge. The learned Single Judge proceeded to pass order against the appellant only on the score that Article 311 of the Constitution read with Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 are not attracted. It is submitted that if the order of termination is not stigmatic, in such an event,



formal domestic inquiry was warranted and it was not conducted that too when appellant has disputed the alleged allegations levelled against him with reference to show cause notice read with the private complaints, therefore, order of the learned Single Judge is liable to be set aside.

4. *Per contra*, learned counsel for the respondents resisted the aforesaid contentions and submitted that appellant has no statutory right to continue to hold the post of Executive Assistant on contract basis in the absence of regular appointment. It is also submitted that Apex Court in the case of ***State of Karnataka and Ors. vs. M.L. Kesari and Ors.*** reported in (2010) 9 SCC 247 read with ***Secy., State of Karnataka and Others vs. Uma Devi*** reported in (2006) 4 SCC 1, ***Dr. Sushil Kumar Tripathi vs. Jagadguru Ram BhadraCharya Handicapped University and Another*** reported in (2022) 8 SCC 760 held that contract appointee has no vested right to continue to hold the post.

5. Heard learned counsel for the respective parties.

6. Appellant was appointed on contract basis to the post of Executive Assistant on 29.05.2014 for a period of one year and it was extended from time to time. The last order of extension is dated 13.10.2017. In the month of January, 2018 respondents received certain complaints against appellant, thereafter, show



cause notice was issued on 29.01.2018. Appellant has submitted his explanation. On receipt of appellant's explanation, concerned respondent proceeded to terminate the services of the appellant on 09.02.2018.

7. Perusal of termination order, there were certain serious allegations levelled against the appellant and it is stigmatic in nature, therefore, formal domestic inquiry was warranted. Apex Court held that in respect of termination of temporary employee on certain allegations, a formal inquiry was warranted, such observation has been made. If a termination order is upheld, in that event, alleged allegations stated in the order of termination would come in the way of his future appointment. Nodoubt Article 311 of the Constitution is not attracted in the present matter as appellant was not appointed on regular basis to hold Government servant post, at the same time having regard to the alleged allegations, formal inquiry was warranted and it has not been complied by the official respondent. The same has not been taken note of by the learned Single Judge. Accordingly, order of the learned Single Judge dated 11.07.2018 is set aside.

8. The alleged allegations stated in the order of termination stands expunged for the reasons that such observation is in the absence of providing opportunity of hearing to the appellant.



However, appellant is not entitled to continue beyond 12.10.2017 for the reasons that his last extension of contract appointment was on 13.10.2017 for a period of one year, therefore, the concerned respondent is hereby directed to pay remuneration up to 12.10.2018 from February, 2018. Such remuneration shall be paid within a period of three months from the date of receipt of this order.

9. With the above observation, appeal is allowed in part.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

GAURAV S./-

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