

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1645 of 2018

In
Civil Writ Jurisdiction Case No.5459 of 2018

-
-
1. The Chairman, Bihar State Pharmacy Council, B.M. Das Road, P.S. Pirbahore, District-Patna-800004
 2. The Registrar, namely Shri Bindeshwar Nayak, Bihar State Pharmacy Council, B.M. Das Road, P.S.- Pirbahore, District-Patna

... .. Appellant/s

Versus

1. Ravi Prakash, Son of Late Dharmendra Kumar Verma, Resident of "Sanpj Kunj" Transport Nagar, P.S.- Agam Kuan, District- Patna.
2. The State of Bihar through the Principal Secretary, Health Department, Patna.
3. The Additional Secretary, Health Department, Government of Bihar, Patna.
4. The Director in Chief Health Department Pharmacy Health Department, Govt. of Bihar, Patna.
5. The Drug Controller of Bihar Health Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shailendra Kumar Singh, Advocate
For the Respondent/s : Mr. Ashok Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 24-03-2023

Heard learned counsel for respective parties.

In the instant Letters Patent Appeal, appellant has assailed the order of the learned Single Judge dated 26.10.2018 passed in C.W.J.C. No. 5459 of 2018 insofar as payment of salary to the respondent-petitioner is concerned. Insofar as remaining portion of the order, the concerned official is stated to have passed



an order dated 29.01.2019. Therefore, cause of action accrued to the respondent-petitioner to assail the order dated 29.01.2019 is very much available.

Next question is whether the respondent-petitioner is entitled to salary for the period he has admittedly discharged the duties of the post. It is to be noted that all along the contention of the appellant is that respondent-petitioner was not subjected to any process of recruitment like advertisement and selection process. On the other hand, it is alleged that order of appointment has been fabricated and with such alleged fake document he has continued in service. In fact, the concerned authority should have initiated criminal proceedings in order to ascertain as to how the allegedly fake appointment order was created. The same has not been undertaken by the competent authority. On the other hand, they have taken a decision on the departmental stage while issuing show cause notice and other materials. Any how, the present lis has attained finality. Insofar as passing order on 29.01.2019, the respondent-petitioner is at liberty to question the validity of such decision. In the meanwhile, the respondent-petitioner is not entitled to any arrears of salary as observed by the learned Single Judge. To that effect order of the learned Single Judge dated 26.10.2018 passed in C.W.J.C. 5459 of 2018 is set aside reserving



liberty to the respondent-petitioner to question the validity of order dated 29.01.2019 in the event of respondent-petitioner successful insofar as challenge to the order dated 29.01.2019 in that event the respondent-petitioner is at liberty to claim monetary benefits for the relevant period. In that regard, in the event of making any representation to the appellant the same shall be considered and decided, in accordance with law.

With the above observations, the present Letters Patent Appeal No. 1645 of 2018 stands disposed of.

At this stage, learned counsel for the respondent-petitioner vehemently contended that copy of original appointment order was placed before the learned Single Judge. Mere production of some document before this Court one cannot draw inference to the effect that it is original or genuine it is matter of investigation or inquiry.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

