

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.929 of 2019

In
Civil Writ Jurisdiction Case No.9411 of 2019

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Rasik Lal Sharma Son of Late Bechu Sharma resident of Village and P.O.-
Balbhadrapur, Via- Balua Bazar, Police Station- Birpur, District- Supaul.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary Building, Construction Department, Government of Bihar, Patna
2. The Principal Secretary Department of Finance, Government of Bihar, Patna
3. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Building Construction Department, Government of Bihar, Patna
4. The Additional Secretary, Building Construction Department, Government of Bihar, Patna
5. The Chief Engineer (North) Building Construction Department, Government of Bihar, Patna
6. The Superintending Engineer, Building Construction Department, Works Circle Saharsa
7. The Superintending Engineer, Building Construction Department, Building Circle, Purnea
8. The Executive Engineer Building Construction Department, Building Division, Supaul
9. The Executive Engineer Building Construction and House Department, Purnea
10. The Executive Engineer, Building Construction and House Department, Purnea

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Siyaram Pandey, Advocate
For the Respondent/s : Mr. Raj Ballabh Pd. Yadav, AAG-11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-06-2023

The appellant is a person, who claims to have
worked in the Work Charge Establishment of the Central



Building Divisions at Patna, Purnea and Saharsha. He claimed regularization through C.W.J.C. No. 766 of 2008, which was not pursued. Alongwith the writ application he produced an appointment letter dated 21.01.1981 bearing No. 81 claiming the same to be his appointment letter. The letter, based on which the claim was raised, was found to be not a genuine one. The Executive Engineer, Building Division, Supaul, hence, issued a show-cause notice to the appellant on 23.07.2012 and his salary was stopped. The petitioner neither filed any reply to the show-cause notice nor challenged the termination effected. The petitioner, for obvious reasons did not pursue the earlier writ petition. The present writ petition was also filed for regularization.

The respondents before the learned Single Judge objected to the filing of the present writ petition, especially when the earlier one was dismissed for default. The petitioner having given up his claim cannot seek resurrection of it afterwards was the contention. The said objection was overruled by the learned Single Judge finding that there was no finding on merit in the earlier round before this Court. However, with respect to the claim for regularization, it was found that the petitioner did not avail the opportunity to reply to the show-cause notice and, in such circumstances, there cannot be any relief granted at this



point of time.

The learned counsel for the petitioner specifically pointed out Annexure-C from the counter affidavit, to be the reply filed before the Executive Engineer, Supaul; which, according to him, was never considered.

We have looked at Annexure-C to find that there the contention was only regarding the regularization and there was nothing stated as to the genuineness of the appointment letter No. 81 dated 21.01.1981; which was alleged to be a fabricated document as per the show-cause notice dated 23.07.2012. Even in the earlier proceedings of the year 2008, the appellant had claimed to be appointed in Work Charge Establishment by Executive Engineer, Central Building Division, Patna with effect from 01.03.1981 and immediately transferred to the Building Division, Purnea since 31.01.1981. It was also stated that the appellant was then transferred to Building Division, Saharsha on 20.05.1985 from where he was appointed at Birpur Sub-Division vide letter no.1561 dated 30.07.1985, which was later under Building Division, Supaul. When C.W.J.C. No. 7666 of 2000 was pending, the office of Executive Engineer, Central Building Division, Patna categorically informed the Executive Engineer, Building Division, Supaul that the appointment letter produced by him was not issued from that Office. It was hence, that there



was a direction to the EE, Building Division, Supaul to file a supplementary affidavit in the writ petition of 2008, which was followed up with the show-cause notice dated 23.07.2012, seeking explanation from the appellant and stopping his salary which effectively terminated his employment. Obviously, due to the hindrance caused by the contention taken before the writ Court, the appellant did not pursue the remedy. The writ petition stood rejected for default.

The appellant never challenged his termination from work. Admittedly, he was not continued after the show-cause notice was issued to him. The reply said to have been made by him also did not contain any explanation as to the specific allegation of fabricated document having been produced in his claim for regularization; which also presumably led to his appointment at Supaul, from where he was terminated. There is nothing produced by the appellant to establish his appointment even in the present writ petition, but for the letter dated 20.01.1981 bearing No. 81 as Annexure-2. The service book produced as Annexure-3 also shows his service to have commenced on 24.01.1981 based on the letter of 20.01.1981 which was found to be fabricated.

It is also pertinent that the appellant, though claimed regularization in the earlier writ petition, did not pursue it;



obviously, since the allegation of fabrication of a document and resultant fraud played on the Department was raised before the writ Court. Even today, the petitioner’s employment, which led to his transfer from Central Building Division, Patna to Supaul, has not been established to be a genuine document. The appellant having not pursued the earlier writ petition of the year 2008 and having not challenged the termination in the year 2012 cannot seek for a regularization after seven years of the termination.

We find that the appellant has absolutely no case on merits and the claim of regularization is also not tenable for reason of no satisfactory explanation having been offered against the ground of his termination as also for the reason that the termination was far earlier in time to the present writ petition.

The L.P.A. would stand rejected.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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CAV DATE	
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